

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
CHATTANOOGA DIVISION**

Robert M. Goforth,

Plaintiff,

vs.

**Tennessee Valley Authority and Day &
Zimmerman NPS, Inc.,**

Defendant.

Case No. 1:20-cv-254

U.S. District Judge McDonough

Magistrate Judge Lee

JOINT APPENDIX

Plaintiff and Defendants respectfully submit this agreed list of documentary evidence, referred to henceforth as “the Joint Appendix,” which contains the documentary proof upon which the parties will rely in support of and in opposition to Defendants’ Motions for Summary Judgment and Plaintiff’s Motion for Partial Summary Judgment. The parties agree and stipulate that the attached documents are authentic and may be considered by the Court in ruling on the parties’ motions for summary judgment, but otherwise preserve objections.

EXHIBIT	DOCUMENT DESCRIPTION	JOINT APPENDIX NO.
1.	Robert Goforth Deposition Excerpts Pages: 11-12, 16, 114-119, 128, 206-207, 234-244, 247-304, 307-308, 312	JA 0001-079
2.	Jeffrey McGuire Deposition Excerpts Pages 8-20, 23, 29-49, 55-66, 69, 70-81, 83-102, 111-117, 123-131	JA 0080-177
3.	Jesse James Deposition Excerpts Pages: 5-14, 20-41, 45-47, 51, 56-64, 66-70	JA 0178-229
4.	John Rhodes Deposition Excerpts Pages: 18-19, 27-28	JA 0230-235
5.	Walter Lee Sanders Deposition Excerpts Pages: 17-22, 26-30, 32, 34-36, 39, 42-46, 49-63, 66, 80-81, 83-116, 119-127	JA 0236-322

6.	Meshelle Augustin Deposition Excerpts Pages: 11-17, 21-28, 32-37, 45-53, 58-64, 67-68, 70-73, 76-78, 82-86	JA 0323-376
7.	Rebecca Whiteman Deposition Excerpts Pages: 16-26, 28-73, 76-95	JA 0377-443
8.	Freddie Gibson Deposition Excerpts Pages: 8-12, 16-20, 23, 26, 32-39, 47-55, 61-73, 74-77, 80-81	JA 0444-493
9.	DeWarren Washington Deposition Excerpts Pages: 11, 17, 20, 23-24, 26-33, 52-55, 64-65, 76-79, 149, 150-151	JA 0494-515
10.	John Reeves Deposition Excerpts Pages: 12-15, 18, 32-34, 130-132, 154-157, 161-165	JA 0516-533
11.	Gregory Whitehorn Deposition Excerpts Pages: 8-9, 12-18, 25-64, 69, 75-121, 125-126, 202-211	JA 0534-644
12.	DZ Marked Ex. 05 – R. Goforth Resume	JA 0645-647
13.	DZ Marked Ex. 06 – Goforth Offer Letter	JA 0648-649
14.	DZ Marked Ex. 07 – Certification of Understanding of DZNPS Employee Orientation Book, Project Work Rules and Jobsite Safety	JA 0650
15.	DZ Marked Ex. 08 – Feb 28, 2011 Certification of Understanding of Policies and Procedures	JA 0651
16.	DZ Marked Ex. 10 – Craft Employee Orientation Information & Work and Safety Rules Excerpt Related to Non-Retaliation	JA 0652-656
17.	DZ Marked Ex. 11 – Craft Employee Orientation Information & Work and Safety Rules Excerpt Related to Category One Violations	JA 0657-661
18.	DZ Marked Ex. 12 – Certification of Understanding of DZNPS Employee Orientation Book, Project Work Rules and Jobsite Safety Rules	JA 0662
19.	DZ Marked Ex. 13 – TVA Placekeeping Procedure	JA 0663-664
20.	DZ Marked Ex. 14 – Stop When Unsure Policy	JA 0665

21.	DZ Marked Ex. 16 – Jan 5, 2017 Goforth Offer Letter	JA 0666-667
22.	DZ Marked Ex. 17 – 2017 WO	JA 0668-787
23.	DZ Marked Ex. 18 – Plaintiff's Responses to DZ's First Set of Interrogatories	JA 0788-801
24.	DZ Marked Ex. 20 – Oct 22, 2018 Statement of Derek Pair	JA 0802
25.	DZ Marked Ex. 21 – Oct 22, 2018 Statement of Freddie Gibson	JA 0803
26.	DZ Marked Ex. 24 – Oct 22, 2018 Robert Goforth Statement	JA 0804-805
27.	DZ Marked Ex. 29 – 2018 WO, including data sheets	JA 0806-851
28.	Pl's Marked Ex. 2 – Jan 5, 2017 Goforth hire letter	JA 0852-853
29.	Pl's. Marked Ex. 4 – Photo of TPBAR Assembly	JA 0854
30.	Pl's. Marked Ex. 5 – Oct 27, 2017 Goforth Evaluation	JA 0855-866
31.	Pl's. Marked Ex. 6 – Oct 3, 2017 Cusick email	JA 0867
32.	Pl's. Marked Ex. 7 – Oct 5, 2017 Cusick Email to Fordham, fw: Tritium	JA 0868
33.	Pl's. Marked Ex. 8 – Sept 25, 2017 McGuire email	JA 0869-870
34.	Pl's. Marked Ex. 9 – Sept 25, 2017 McGuire email	JA 0871-872
35.	Pl's. Marked Ex. 10 – Nov 17, 2017 Cusick CR	JA 0873-875
36.	Pl's. Marked Ex. 12 – Nov 7, 2017 Goforth emails	JA 0876-877
37.	Pl's. Marked Ex. 16 – NRC 2017 Confirmatory Order	JA 0878-906
38.	Pl's. Marked Ex. 17 – Nov 28, 2018 Follow up for NRC Confirmatory Order	JA 0907-919
39.	Pl's. Marked Ex. 18 – Goforth Access (UAA) Denial and Appeal denial	JA 0920-923
40.	Pl's. Marked Ex. 19 – Nov 20, 2018 Final ERB Packet	JA 0924-933
41.	Pl's. Marked Ex. 20 – Oct 20, 2017 TVA ERB policies	JA 0934-972

42.	Pl's. Marked Ex. 21 – TVA Interrogatory Answers to Goforth	JA 0973-991
43.	Pl's. Marked Ex. 23 – Excerpt Nov 6, 2018 draft ERB package (complete exhibit)	JA 0992-1002
44.	Pl's. Marked Ex. 24 – Sanders Nov 19, 2018 email	JA 1003-1004
45.	Pl's. Marked Ex. 27 – 2018 Work Order excerpts (complete exhibit)	JA 1005-1019
46.	Pl's. Marked Ex. 28 – Revised Work Order after 2018	JA 1020-1022
47.	Pl's. Marked Ex. 30 – TVA Work Management Planning and Procedures Excerpts (complete exhibit)	JA 1023-1030
48.	Pl's. Marked Ex. 31 – Oct 22, 2018 Rhodes CR	JA 1031-1034
49.	Pl's. Marked Ex. 32 – Oct 31, 2018 Rogers email	JA 1035-1036
50.	Pl's. Marked Ex. 35 – Aug 20, 2018 Goforth ECP contact	JA 1037
51.	Pl's. Marked Ex. 36 – Excerpt, TVA Site Tech. Procedures, (complete exhibit)	JA 1038
52.	Pl's. Marked Ex. 37 – Nov 13, 2018 Reeves email	JA 1039
53.	Pl's. Marked Ex. 38 – Nov 20, 2018 Reeves emails	JA 1040-1041
54.	Pl's. Marked Ex. 41 – Nov 6, 2018 Washington email with draft ERB package	JA 1042-1057
55.	Pl's. Marked Ex. 42 – Nov 6, 2018 Rogers emails	JA 1058-1062
56.	Pl's. Marked Ex. 44 – Nov 12, 2018 Washington email with draft ERB package	JA 1063-1083
57.	Pl's. Marked Ex. 45 – Nov 20, 2018 Washington emails with draft ERB package	JA 1084-1105
58.	Pl's. Marked Ex. 49 – Nov 20, 2018 Sanders email with draft ERB package	JA 1106-1119
59.	Pl's. Marked Ex. 50 – Nov 26, 2018 Washington email with revised ERB documents	JA 1120-1133
60.	Pl's. Marked Ex. 54 – Nov 20, 2018 Fact Finding Notes signed by Washington	JA 1134-1135
61.	Pl's. Marked Ex. 55 – Nov 22, 2018 Goforth email	JA 1136
62.	Pl's. Marked Ex. 57 – Nov 26, 2018 DZ emails on Goforth pay	JA 1137-1138

63.	Pl's. Marked Ex. 61 – Oct 18, 2018 Human Performance Alert	JA 1139
64.	Pl's. Marked Ex. 62 – Prompt Investigation Report	JA 1140
65.	Pl's. Marked Ex. 63 – Manway Cover CR	JA 1141
66.	Pl's. Marked Ex. 64 – Oct 21, 2018 Gibson statement	JA 1142
67.	Pl's. Marked Ex. 65 – TVA Discovery Responses to Goforth	JA 1143-1179
68.	Pl's. Marked Ex. 66 – Nov 29, 2018 Sanders email “ERB Package” and “Mitigation Plan”	JA 1180-1195
69.	Pl's. Marked Ex. 67 – Nov 27, 2018 Washington email	JA 1196
70.	Pl's. Marked Ex. 68 – Nov 7, 2018 Augustin, Poland emails	JA 1197-1198
71.	Pl's. Marked Ex. 72 – Excerpts from 305 pages of complete Exhibit; excerpted for the sake of brevity; excerpts are the Bates pages referenced in Whitehorn Deposition	JA 1199-1503
72.	Pl's Marked Ex. 73 – Oct 17, 2017 McGuire Email to Poland re: ERB	JA 1504
73.	Pl's Marked Ex. 74: DZ emails on Goforth pay	JA 1505-1507
74.	TVA Marked Ex. L – Sept 8, 2017 & Sept 11, 2017 Goforth Emails to McGuire, Assessment	JA 1508-1510
75.	TVA Marked Ex. M – Oct 6, 2017 Goforth Email and Oct 6, 2017 Cycle 14 Tritium Project Assessment & Evaluation	JA 1511-1524
76.	TVA Marked Ex. O – Nov 17, 2017 CR 1357390, “Cycle 14 Tritium Consolidation Campaign Gaps” aka “Cusick CR”	JA 1525-1627
77.	Nov 29, 2018 Employee Information Form	JA 1628
78.	Exit Package	JA 1629-1633
79.	Apr 9, 2018 Estimate CWA Cover Sheet	JA 1634-1637
80.	Feb 12, 2019 Tenn. DOL Unemployment Claim Notice	JA 1638
81.	Goforth's “Appellant's Jurisdictional Response” to MSPB, excerpt	JA 1639-1644
82.	TVA's “Agency Response” to MSPB, excerpt	JA 1645-1648

83.	Goforth's Reply to Agency Response to MSPB , excerpt	JA 1649-1664
84.	Admin. Judge Order in MSPB case, 9/6/18	JA 1665-1670
85.	UAA Decisions and Review Materials, 12/7/18 – 1/18/19	JA 1671-1728
86.	John Reeves Phone Interview with Goforth, recording to be hand delivered to Chambers on thumb drive	
87.	Video recording of June 22, 2017 TPBAR incident, to be hand delivered to chambers on a thumb drive	
88.	Robert Goforth Deposition Excerpts (Cont.) Pages: 3, 11-12, 15-16, 22, 24-26, 29, 37-38, 57, 63, 66-67, 69, 73-74, 78-84, 86-88, 90-91, 93-94, 96, 98, 100-101, 103-104, 114-122, 125-126, 156, 158, 167, 172-174, 176, 178-179, 182-183, 185-186, 191, 193, 196-197, 201, 208-209, 211-213, 245	JA 1729-1823
89.	John Reeves Deposition Excerpts (Cont.) Pages: 67-68, 117-118, 153	JA 1805-1811
90.	Gregory Whitehorn Deposition Excerpts (Cont.) Pages: 133, 138-139, 141	JA 1812-1817
91.	DeWarren Washington Deposition Excerpts (Cont.) Pages: 38-39, 48-49	JA 1818-1823
92.	Freddie Gibson Deposition Excerpts (Cont.) Pages: 15-16, 27	JA 1824-1828
93.	Walter Lee Sanders Deposition Excerpts (Cont.) Page: 117-118, 131	JA 1829-1833
94.	Meshelle Augustin Deposition Excerpts (Cont.) Page: 89	JA 1834-1836
95.	DZ Answers to Plaintiff's Interrogatories	JA 1837-1865
96.	October 28, 2021 email from Plaintiff's counsel	JA 1866-1868
97.	Rebecca Whiteman Deposition Excerpts (Cont.) Pages: 97-98	JA 1869-1872

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of November 2021, the foregoing was filed electronically through the ECF system, is available for viewing and downloading from the ECF system and will be sent electronically to the registered participants identified on the Notice of Electronic Filings as follows:

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/s/ J. Christopher Anderson
J. Christopher Anderson

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TENNESSEE
3 AT CHATTANOOGA

4 ROBERT M. GOFORTH,
5 Plaintiff,

6 vs.

Case No: 1:20-cv-254

7 TENNESSEE VALLEY AUTHORITY
8 and DAY & ZIMMERMANN NPS,
9 INC.

10 Defendants.

11 Chattanooga, Tennessee
12 September 9, 2021

13 DEPOSITION OF ROBERT GOFORTH

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1 Q. And not suggesting that you are, but I've got
2 to ask it for the record. Are you under the
3 influence of any alcohol, medication or other
4 substance that would impact your ability to
5 understand my questions and answer them truthfully
6 today?

7 A. No, sir.

8 Q. And is there any other reason that you
9 couldn't provide truthful, complete and accurate
10 testimony here today?

11 A. No, sir.

12 Q. Mr. Goforth, who made the decision to
13 termination your employment from Day & Zimmermann?

14 A. DeWarren Washington.

15 Q. And on what facts do you support that belief?

16 A. Mr. Washington called me and terminated my
17 employment by telephone call.

18 Q. Other than the fact that Mr. Washington
19 called you and informed you of your termination, do
20 you have any other facts to suggest or to support
21 your contention that he made the decision to
22 terminate your employment?

23 A. Yes, sir.

24 Q. Okay. And what are those?

25 A. He -- I asked him verbally on the phone when

1 had -- when we first saw the documents, it was
2 DeWarren that was proposing the adverse action. John
3 Reeves' name was not on any of that.

4 Q. Okay. So the fact that DeWarren's name was
5 on the ERB paperwork is why you dispute the fact that
6 John Reeves made the decision to terminate your
7 employment; is that correct?

8 A. That's part of it, yes, sir.

9 Q. And what else?

10 A. DeWarren, through the entire process, he was
11 the one that had met with me. He's the one that
12 suspended me on October 22nd. He's the one who
13 terminated me. He's the one that -- as far as filled
14 out most of the paperwork as far as proposing adverse
15 action, and that's the best of my recollection on
16 that part of the question.

17 Q. Is there anything else other than what you
18 just told me?

19 A. None that I can think of at this moment, sir.

20 Q. Is there anything you would need to look at
21 that would change your mind about -- you said none
22 that I can say at this moment. We're here at your
23 deposition today.

24 A. Yes, sir.

25 Q. So that's why I'm asking. Is there anything

1 interviewed me there was no -- I was just in the
2 process of the assessment before I even -- before I
3 even knew about that Howard Cusick even existed.

4 Q. Okay. You said he interviewed you during
5 that time?

6 A. Yes, sir, he did.

7 Q. When did he interview you?

8 A. It was in September when I was called as --
9 to provide witness testimony in his investigation.

10 Q. Got it. When did you first raise the safety
11 concerns out of cycle 14?

12 A. The safety concerns were -- again, I was not
13 the person -- I was only -- I was called to be a part
14 of a safety concern. An unknown party raised the
15 concern.

16 Q. Okay. So you never submitted a specific CR
17 related to those concerns that you had?

18 A. No, sir, I was a part of -- my evaluation
19 became the CR word for -- almost word for word in
20 Mr. Cusick's CR during his investigation.

21 Q. Got it. Understand. Okay. And DeWarren
22 Washington, he left TVA in June of 2017; is that
23 correct? Or sometime I guess in the late spring, or
24 somewhere in there?

25 A. Yes, sir, but he came back.

1 process?

2 A. No, sir, I didn't.

3 Q. You were informed -- I believe you said you
4 were being terminated by DeWarren; is that correct?

5 A. That's correct, sir.

6 Q. And that was on, what, November 29, 2018?

7 A. Yes, sir.

8 Q. Tell me everything you can recall about that
9 phone call.

10 A. He called. I don't remember a lot about the
11 phone call. It didn't last but five or six minutes,
12 I think. He explained to me why. He told me about
13 the process. We already talked about it. He said it
14 was collectively. I asked him why he's doing this, I
15 think. I'm really sketchy on the thoughts, but, I
16 mean, I remember the phone call. I remember the
17 things that I said, but I don't -- he told me about
18 the Day & Zimmermann employee concerns, I think, if I
19 wanted to appeal the decision, I think.

20 What stood out is -- oh, and I asked him how
21 long my access -- he told me my access is being
22 revoked, removed, and I asked him for how long, and I
23 told him -- he told me 90 days. Then I asked him
24 would my suspension -- I got suspended on October
25 22nd, would that time come off my 90-day suspension?

1 He said he didn't know, but he would check and see,
2 and that was about it.

3 Q. Okay. And you said the comment of you asked
4 him if he made the decision; he said no?

5 A. That's correct, sir.

6 Q. And then you said did TVA make the decision;
7 he said no?

8 A. That's correct.

9 Q. And then what did he ultimately say?

10 A. He said it was collectively.

11 Q. Okay. He said it was collectively meaning --

12 A. I thought him and TVA.

13 Q. But you don't know that?

14 A. I do not know that, sir.

15 Q. Okay. And do you know if Day & Zimmermann
16 has anything to do with your access, like whether or
17 not your access is for 90 days, or 100 days, or 80
18 days? Do you know if that's something with their
19 purview or if that's someone else?

20 A. I thought it was part of the ERB process as
21 far as the paperwork, but I don't have enough
22 experience in that part of it to be able to give an
23 honest answer.

24 MR. LANTIS: 25.

25 (Document was marked for identification

1 of Energy; is that right?

2 A. Yes, sir. The Department of Energy owns the
3 project, to my knowledge.

4 Q. Were you working with -- who were you working
5 with in terms of who was buying the tritium and how
6 you were shipping it?

7 A. I don't -- I don't know that. I know the --
8 I worked for Mr. Maguire, the senior tritium program
9 manager, and I know at least several of the stops
10 once it leaves Watts Bar.

11 Q. All right. Who was Maureen Holloway?

12 A. She was the tritium sustainment group
13 coordinator.

14 Q. What was her role?

15 A. She was the coordinator for the sustainment
16 group for all -- she was the coordinator for all the
17 agencies that I know of.

18 Q. And were there other contractors or
19 individuals involved that she communicated with?

20 A. Yes, sir.

21 Q. Like who?

22 A. Savannah River site; PNNL, Pacific National
23 Nuclear Laboratory; Energy Solutions, NAC; Leidos;
24 the Tennessee Highway Patrol; NNSA, National Nuclear
25 Safety Security Administration, I think that's how

1 you pronounce it; and I forgot the organization that
2 done -- done the waste shipments. But there were
3 several others that were usually on our conference
4 call, but I don't -- I don't remember what agency
5 they represented.

6 Q. Were they enforcing the -- or relying on
7 deadlines for TVA to get the tritium out or remove
8 the waste?

9 A. Can you repeat the question, sir.

10 Q. Were those agencies and other organizations
11 setting deadlines for TVA to move the tritium or the
12 waste?

13 A. No, sir. The tritium is TVA procedurally.
14 As far as when you can harvest, when you can move it,
15 that starts at TVA, but that would be a -- TVA Watts
16 Bar is the first domino in the chain.

17 Q. How important were meeting deadlines?

18 A. Very. Once a schedule was set, every
19 agency -- every agency's schedule adapted -- made
20 their resources to TVA's schedule -- our schedule.

21 Q. Can you help clarify this in terms of when we
22 refer to a cycle, like cycle 14, what is that cycle?

23 A. A cycle is where tritium-producing burnable
24 absorbing rods are within the new fuel assemblies
25 that stay inside the nuclear core for a period of

1 18 months and that it completes a cycle,
2 approximately.

3 Q. So what is -- the cycle 14 harvest, would
4 that occur at the end of 18 months when y'all harvest
5 the tritium from that and transport it? Is that what
6 that means?

7 A. The harvesting cycle -- if we're using cycle
8 14, the harvesting -- tritium cycle 14 starts
9 immediately after the outage 14 of that unit because
10 that's when the rods come out of the reactor and make
11 their way to the spent fuel pool.

12 Q. I've seen a lot of documents refer to the
13 consolidation.

14 A. Yes, sir.

15 Q. What is that term -- what is that term
16 referring to?

17 A. The term is -- that is the -- that term is
18 used -- that is the harvesting. That is harvesting
19 the rods out of the fuel assembly.

20 Q. Is consolidation more or less interchangeable
21 with harvesting?

22 A. It's just another word. Consolidation,
23 harvesting, to me they are the same.

24 Q. Thank you. And were there different phases
25 in terms of the harvesting and then the

1 transportation? And I also saw in some of the
2 documents waste removal as well?

3 A. Yes, sir, there was.

4 Q. Were they going on at the same time or were
5 they distinct phases?

6 A. Phases, sir.

7 Q. We'll go into a little bit more detail on
8 that, but thank you for the high level review. And
9 just very briefly, the work that you were doing on
10 the moisture separator reheater that was the issue
11 with the manway cover, did that have anything to do
12 with tritium --

13 THE REPORTER: I'm going to have to ask
14 you to repeat that whole question again.

15 BY MR. MEALOR:

16 Q. Did your work on the moisture separator
17 reheater that is at the heart of the issue with the
18 manway covers, did that have anything to do with your
19 work on the tritium project?

20 A. No, sir, it did not.

21 Q. What was your title when you were working
22 with the tritium project?

23 A. Tritium task manager.

24 Q. And what is the tritium mechanical field
25 engineer that I saw at the bottom of some of your

1 e-mails?

2 A. The tritium field engineer was the person
3 who -- let me -- I don't want to step outside my
4 boundary there. Could you ask that question one more
5 time, sir?

6 Q. In many of your e-mails your title says,
7 "tritium mechanical field engineer." I was asking
8 for clarification of what that is.

9 A. I was assigned to the tritium program when I
10 was -- when I signed a contract in 2006 -- end of
11 2015 to be the field engineer for the tritium program
12 cycle 13. I re-signed a contract January 2017 to be
13 the task manager once Greg Whitehorn, TVA maintenance
14 service manager, during the restructuring from MODS
15 to maintenance services, I was taking over his
16 position, sir.

17 Q. And sometimes the word "oversight" is
18 included with your title or your function. Can you
19 clarify what that meant?

20 A. In order to be able to give direction or
21 oversight to TVA employees, I had to at least be
22 augmented, sir.

23 Q. Right. So like on your assessment report it
24 says, "tritium task manager/oversight."

25 A. Yes, sir.

1 Q. So you oversaw other employees, both DZ
2 employees and TVA employees, is that what you meant?

3 A. I oversaw the program itself. Jaycen West,
4 TVA out of maintenance -- out of the maintenance
5 service shop was the supervisor over the employees.
6 I could not -- I have to give -- I provided oversight
7 and guidance to him as he directed the employees.

8 Q. Kind of like a counselor, giving advice on
9 what to do?

10 A. No, sir. Oversight to make sure that he is
11 following the directions and the procedures of the
12 program.

13 Q. How hands on were you during the work --

14 A. I was a --

15 Q. -- during cycle 14?

16 A. Sorry. I didn't mean to interrupt you. I
17 was a non-manual, sir.

18 Q. Did you have to rely -- so you relied on
19 supervisors. Did you rely on foremen?

20 A. What was the last part of that, sir?

21 Q. Did you rely on foremen?

22 A. Did I rely on the foreman?

23 Q. Yes, to help get the work done.

24 A. I relied on everybody, but the -- I relied on
25 Jaycen West. He was the supervisor.

1 Q. Were you ever involved in any capacity for
2 hiring someone or firing someone or disciplining
3 someone?

4 A. No, sir. I was not, sir.

5 Q. Did they come to you for advice on those
6 issues, Jason or others?

7 A. Yes, sir, they did.

8 Q. In what capacity? Were you just giving an
9 assessment of how well someone performed, or were you
10 giving an assessment of what the discipline should
11 be?

12 A. Oh, I'm sorry, sir, I misunderstood your
13 question. Are we talking about discipline?

14 Q. Discipline, hiring and firing, yes, those
15 kinds of managerial decisions.

16 A. No, sir. That came from his chain of command
17 through the maintenance service shop.

18 Q. You did mention earlier SCWE, which is safety
19 conscious work environment, and you explained that
20 had to do with making sure that people felt free to
21 raise safety concerns?

22 A. Yes, sir.

23 Q. Did you get any training on SCWE concerns?

24 A. Yes, sir, at Watts Bar. It's an annual
25 training.

1 Q. Do you understand what the connection between
2 SCWE and the ERB is?

3 A. I never heard of the ERB until my process
4 went through it, sir.

5 Q. Okay. Have you ever looked at the process
6 for adverse actions with SCWE? Have you reviewed the
7 process for adverse employment actions and the ERB?

8 MR. JOHNSON: Object to the form of the
9 question. Are you referring to at the time before
10 his ERB, or are you meaning up to today?

11 MR. MEALOR: Before then, when you
12 were -- when you were the tritium task manager.

13 THE WITNESS: In the training that I
14 received at Watts Bar, the majority of the training
15 was -- the ERB was never really discussed, sir.

16 BY MR. MEALOR:

17 Q. Were you ever in a situation where someone
18 had maybe been terminated or suspended and the
19 manager called a meeting to discuss what happened?

20 A. Have I -- have I ever been involved in that?

21 Q. Yes, even just as a participant sitting and
22 listening to someone explain why someone was
23 terminated or suspended.

24 A. Not that I can recall, sir.

25 Q. Are you at all familiar with the mitigation

1 process when someone is suspended or terminated?

2 A. The what process, sir?

3 Q. Mitigation.

4 A. Am I familiar with it? No, sir, I'm not.

5 Q. Is that typical of a contract employee, you
6 know, to have -- to go through some trainings, but
7 just to have minimal knowledge of the ERB process?

8 MR. JOHNSON: Object to form.

9 THE WITNESS: Our training was always
10 roughly a one- or two-hour deal, a one- or two-hour
11 process. I can't remember much going longer than
12 that. I think there might have been an eight-hour.
13 The main focus on the training was your avenues of
14 listed employees, and there's a couple of training
15 films with scenarios that you would go through. But
16 it's basically knowing the avenues to take if
17 somebody had a nuclear safety concern, or if they
18 were experiencing a chilled work environment.

19 BY MR. MEALOR:

20 Q. Thank you. As part of your duties as the
21 tritium task manager, were you responsible for the
22 safety of the project, the people working on the
23 project?

24 A. I was one of everybody. Everybody was
25 responsible.

1 Q. Were you aware of any safety violations --
2 let me rephrase.

3 Did you or anyone under your supervision
4 violate a safety rule?

5 A. There was some rules that were -- no, not
6 safety, no, sir. Not that I can remember.

7 Q. Are you aware of any time that you or someone
8 who worked on the project underneath you violated an
9 NRC rule?

10 A. Not to my knowledge, as far as a specific NRC
11 rule, sir.

12 Q. Are you aware of any safety violations that
13 occurred during the cycle 14 harvesting or
14 consolidation, tritium consolidation?

15 A. Well, there was gaps. If you're referring to
16 the gaps as concerns in cycle 14, then I was aware of
17 a lot of things that happened there. But some of
18 them may not be safety, or you could say everything
19 is safety. I don't -- I'm not -- I don't know -- I
20 don't know how to answer the question.

21 Q. That is fair. We will go over the answer
22 that you described in those gaps. So in terms of
23 individual incidents that may not have been reported,
24 were they handled immediately?

25 So if there was a safety incident, were they

1 handled immediately, or do you know of any safety
2 incidents that were not handled immediately?

3 A. Well, the one safety issue that was not
4 handled would be the -- not just the dropping of the
5 TPBAR in cycle 14, but it was the direction to turn
6 off the cameras to make an unauthorized fix. That
7 safety concern -- that nuclear safety concern was --
8 that was the problem. That was -- it wasn't the
9 drop. You could deal with a drop. But telling
10 people to violate procedures to turn off cameras
11 while you make an unauthorized fix, that is the
12 problem. To me --

13 Q. How --

14 A. Go ahead.

15 Q. No, please.

16 A. I probably went too far into that question.
17 I apologize.

18 Q. We will return to that. I think I'm just
19 trying to get an assessment of your work at a high
20 level. You also mentioned lessons learned; correct?

21 A. Yes, sir. The entire evaluation was a
22 lessons learned.

23 Q. The consolidation assessment was part of a
24 lessons learned, is that what you're saying?

25 A. Yes, sir, it was.

1 A. Yes, sir, I do.

2 Q. What is it?

3 A. I said, yes, sir, I do.

4 Q. And what is that document?

5 A. This right here is going to be a lessons
6 learned. It's adding with Energy Solutions, a
7 tritium sustainment group organization that deals
8 with waste.

9 Q. Is this a different type of lessons learned
10 than what we saw in Document G?

11 A. Yes, sir.

12 Q. And what was the purpose -- going back to
13 Document G, what were the concerns that they were
14 looking for in that lessons learned?

15 A. Every lesson learned is something to make us
16 better, no matter how small it is, no matter how
17 large it is, whether it be a procedural change,
18 procedural guidance, equipment, rad pad issues. Rad
19 pad, radiological pad where we park things inside the
20 containment area. There's just a whole list of
21 things.

22 Q. And Document I, do you have that in front of
23 you?

24 A. Have what, sir?

25 Q. Document I.

1 THE REPORTER: One moment. Are you
2 marking this document, Counsel?

3 MR. MEALOR: Yes, I'd like to admit that
4 as the next exhibit.

5 (Document was marked for identification
6 as Exhibit Number I.)

7 BY MR. MEALOR:

8 Q. Let me know when you're ready.

9 A. Yes, sir, I'm ready.

10 Q. Is this a third lessons learned with the
11 agencies?

12 A. Yes, sir, it is.

13 Q. Is this different in any way in terms of the
14 main purpose of the lessons learned?

15 A. Well, my memory is a little faint on some of
16 these, but all of these are a collective part of the
17 process from the cycle 13 with waste. Cycle 14 you
18 had two different functions there. You had the
19 actual harvest and production, and then you had
20 waste. Two totally separate. The time frame's a
21 span of over eight months, eight or nine months, sir.
22 And I wouldn't have the best memory. I recognize
23 what they are, but nothing -- I'll try to answer your
24 questions as best as I can remember, sir.

25 Q. Thank you. Well, that -- what you're telling

1 me is that you have several of these lessons learned,
2 they are ongoing, and they cover a multitude of
3 issues?

4 A. Yes, sir, they do.

5 Q. And they are with other agencies for the next
6 dominos, so to speak, in the chain?

7 A. Each agency has to provide the tritium chair
8 with lessons learned to make the program better to
9 Ms. Holloway, and then she distributes those
10 collectively with all agencies involved and makes one
11 big, gigantic lessons learned.

12 Q. Would you say their primary concerns are
13 scheduling, costs, efficiency?

14 A. Yes, sir. I think that would be a fair
15 assessment, sir.

16 Q. And you had said that the assessment that you
17 do builds up to these lessons learned. Can you talk
18 about that a little bit?

19 A. My assessment or these?

20 Q. Your assessment.

21 A. The assessment I wrote was by direction of
22 Mr. Jeff Maguire for in-house use.

23 Q. Thank you.

24 MR. MEALOR: Let's pull up Document K and
25 maybe for simplicity sake we can have G admitted as

1 Exhibit 1, H as Exhibit 2, I as Exhibit 3, and
2 Document K can be Exhibit 4.

3 MR. JOHNSON: We've already labeled them
4 according to the letters, and that might be better.
5 I mean, it's up to you because that will distinguish
6 them from the other numbered exhibits that have been
7 admitted today.

8 MR. LANTIS: Yeah, if I may, I would
9 suggest that we just approach them by labeling them
10 Exhibits H, K, G, whatever. Like we'll just do it
11 that way.

12 MR. MEALOR: Wonderful.

13 MR. JOHNSON: Yeah, I think it's fine.

14 MR. MEALOR: Okay. Thank you. I thought
15 there was some confusion there. This is Document K.
16 I would like to enter this as an exhibit.

17 (Document was marked for identification
18 as Exhibit Number K.)

19 THE WITNESS: I'm ready sir.

20 BY MR. MEALOR:

21 Q. Thank you. You said that Mr. Maguire had
22 asked you to do an assessment. Is this an e-mail
23 that he's asking you to do the assessment, giving you
24 advice?

25 A. For the tritium sustainment group, yes, sir.

1 Not for in-house TVA.

2 Q. What is the difference?

3 A. Everything here is for the tritium
4 sustainment group and equipment -- equipment needs
5 that goes for the tritium sustainment budget as a
6 whole.

7 MR. MEALOR: And let's pull up
8 Document M, please. "M," as in Mary.

9 (Document was marked for identification
10 as Exhibit Number M.)

11 THE WITNESS: I have it in front of me,
12 sir.

13 BY MR. MEALOR:

14 Q. Thank you. I'd just point out that in that
15 e-mail dated October 6th, it's titled, "Assessment
16 and Evaluation File." Was this your final version?

17 A. Yes, sir, I believe it was, sir.

18 Q. And is this the assessment evaluation that
19 was the source of Cusick's CR report and is the
20 evaluation that figures largely in your complaint?

21 A. Yes, sir, I believe it is, sir.

22 Q. And when did Mr. Maguire ask you to do this?

23 A. I'm not exactly sure of the date, but I can
24 give you a ballpark. I think it was -- him actually
25 asking me was in the month of August, I think, sir.

1 Maybe -- I think it was the end of July, August, in
2 that neighborhood.

3 Q. What were his instructions?

4 A. He wanted an evaluation of the program and
5 all the events that occurred during the cycle 14 so
6 he could have a further discussion with upper TVA
7 management. And that's as far as I knew. He didn't
8 go any further in details about it, sir.

9 Q. He did not express any concerns to you?

10 A. Excuse me, sir?

11 Q. He did not -- he did not express concerns to
12 you that he wanted you to spill over?

13 A. Not that I can remember, sir.

14 Q. What was the conclusion that you reached?

15 A. The conclusion was that we had lessons
16 learned. From my take of it, we had lessons learned,
17 issues that happened, things we overcame, things we
18 needed to get better on, and they were all listed in
19 the summary part of it. And pretty much everything
20 in my conclusions were listed in here, sir.

21 Q. You said a lot of the problem was about the
22 use of TVA workers who were inexperienced?

23 A. Yes, sir, that's correct, sir.

24 Q. Do you know why TVA started using their own
25 workers, even though they were inexperienced?

1 A. Yes, sir.

2 Q. What was that? What was the reason?

3 A. Mr. Maguire told me that they wanted to
4 supplement their budget because now that we are a
5 dual unit operation facility, Units 1 and 2 at Watts
6 Bar, the number of personnel needed to be matched by
7 Sequoyah's personnel. And Watts Bar Nuclear Plant,
8 as far as -- not tritium, just TVA maintenance
9 department as a whole, were heavy in personnel, and
10 that people would have to be let go to get to the
11 same number, but adding them to the tritium program
12 would supplement their budget.

13 Anything beyond that, I would just be -- it
14 would be more speculation. I don't have any
15 knowledge any more than that.

16 Q. Did Mr. Maguire think this was a bad idea?

17 A. Yes, sir.

18 Q. Can you go on?

19 A. Yes, sir. The TVA employees that came to the
20 tritium program did not want to be there. They were
21 very vocal about it to the entire tritium staff, the
22 tritium team.

23 Q. When did y'all realize that was a problem?

24 A. Immediately, sir. In March, April, every
25 month during the harvesting, sir.

1 Q. Did that cause safety problems?

2 A. Not just safety, but it caused -- it caused
3 issues throughout just the harvesting, sir.

4 Q. So how did the -- how did the year end? Was
5 it successful in the end?

6 A. As far as getting all the shipments out of
7 Watts Bar and to their destinations, yes, but if my
8 memory serves me correct, I think we had to push some
9 schedule dates.

10 MR. MEALOR: Can we look at Document N
11 and admit it?

12 (Document was marked for identification
13 as Exhibit Number N.)

14 THE WITNESS: I have it, sir.

15 BY MR. MEALOR:

16 Q. That speaks to deadlines, does it not?

17 A. Yes, it does.

18 Q. And what are you saying in this e-mail?

19 A. The last couple of days of the harvesting --
20 this e-mail right here was dated December 21st. This
21 is a part of the process of the waste shipment only.
22 Not the harvesting. Just the waste shipment. We had
23 been in a standstill for the outage, and this part of
24 the process right here was absolutely -- this has
25 nothing to do with the harvest shipment. This right

1 here was strictly waste, and it went smooth.

2 Q. Okay. And who is it written to?

3 A. Carla Borrelli and Jeff Maguire. Contact --
4 CC'd to Steve Cook, the TVA maintenance MMG
5 supervisor -- I mean, manager; Benny Crownover, the
6 foreman; Charles Theobald, radiological protection
7 supervisor; Frank Jasper, manager; Maureen Holloway,
8 tritium sustainment group chair; and Morgan Blair,
9 foreman of the laborers.

10 Q. So what I'm hearing is that by December, by
11 that stage, things were better, but in the summer
12 things were not great, to keep it simple?

13 A. That is correct. The waste shipment was
14 absolutely smooth, yes, sir, and it's completely
15 different than a harvest -- harvesting shipments.

16 Q. The assessment that you did, did Greg
17 Whitehorn help out with it?

18 A. He proofread it. He proofread the
19 evaluation, sir.

20 Q. Did he have any suggestions that you
21 remember?

22 A. I don't remember that, sir.

23 Q. What was his response in general?

24 A. I can't remember that, sir.

25 Q. Okay. And did Mr. Maguire coach you on this

1 after the instructions he gave you?

2 A. I sent my evaluation to him electronically,
3 and Mr. Maguire would -- and I sent it to him in
4 Word -- he would make changes in red, have me look at
5 it, and then come back and redo some of the -- redo
6 some of the changes, and my thoughts on some of the
7 changes and reason for. So, yes, he -- he had a lot
8 to do with my evaluation, sir.

9 MR. MEALOR: Can we look at Document L?

10 THE REPORTER: Counsel, are you admitting
11 this document?

12 MR. MEALOR: Yes.

13 (Document was marked for identification
14 as Exhibit Number L.)

15 THE WITNESS: I have it, sir.

16 BY MR. MEALOR:

17 Q. You were just referring to corresponding with
18 Mr. Maguire for the changes. Is that what these
19 e-mails are about?

20 A. Yes, sir, I think that it is, sir.

21 Q. Can we look at the -- look at the last page
22 dated September 8th. And the e-mail says that you've
23 been working all week on this, that it is time
24 consuming, and you wanted to record everything from a
25 daily log. What daily log or what were you trying to

1 record?

2 A. Sir, what -- from what date, sir? The last
3 page has September 8th.

4 Q. Yes, September --

5 A. I'm sorry.

6 Q. 4027 is the number at the bottom.

7 A. Yes, sir, I have it. Now, could you repeat
8 your question?

9 Q. Yes. You wanted to cover everything from
10 your daily log?

11 A. Yes, sir.

12 Q. What issues were you wanting to cover?

13 A. I had to give Mr. Maguire and Ms. Borrelli a
14 daily log, but it wasn't really sent every day, but
15 it was sent to them of where we were at so they
16 could -- but also Ms. Holloway, for the tritium
17 sustainment group, so they knew the progress of where
18 we were at during the harvesting, because I couldn't
19 attend some of the conference calls. So everything
20 that happened during the day was recorded on a daily
21 log.

22 Q. Everything was recorded on a daily log, and
23 you wanted to cover everything in the report?

24 A. In the evaluation assessment, sir. I tried
25 to, yes, sir.

1 Q. What -- what was the substance or the
2 issues -- can you describe what kind of things you
3 put in that log that you were trying to cover?

4 A. How many rods that we -- how many TPBARs,
5 tritium-producing -- known as TPBARs,
6 tritium-producing burnable absorbing rods -- how many
7 we harvest during the day, any issues during the day,
8 anything that generated a CR. Just everything as a
9 whole. Equipment failure. It covered everything in
10 the log.

11 Q. And to whom was this assessment evaluation
12 written to? Who was your audience?

13 A. Mr. Maguire and Carla Borrelli, the two
14 tritium senior managers, and Ms. Holloway.

15 Q. And Ms. Holloway would read this, too?

16 A. Yes, sir.

17 Q. And --

18 A. Wait. Now she wouldn't -- she didn't -- not
19 the assessment evaluation. The daily log.

20 Q. The daily log. Okay.

21 A. Not the assessment evaluation, sir.

22 Q. So the sentence that says, "My intention is
23 to send it to you and Carla," is "it" the assessment
24 evaluation or the daily log?

25 A. Yes, sir. My instructions, per Mr. Maguire,

1 the only two people that gets a copy of that
2 assessment evaluation would be them.

3 Q. And what does the last sentence of that
4 paragraph mean?

5 A. They wanted to know all good and bad,
6 everything, lessons learned, the evaluation and
7 assessment. They were going to go to Jesse James
8 with it, the maintenance director, and because at
9 first wanting a -- was never got, was a memorandum of
10 understanding, which is covered in the FHI procedure.
11 But other than that, I don't have any knowledge about
12 why they wanted to go talk with Jesse James.

13 Q. Did you hear anything about that conversation
14 with Jesse James afterwards, after they had it?

15 A. I have no memory of that, sir. I don't know.

16 Q. Earlier you had said that you were asked to
17 do the assessment evaluation so that Mr. Maguire
18 could talk to TVA higher-ups. Were you referring to
19 this incident, what you're talking about now, with
20 Jesse James?

21 A. Well, not only Jesse James, but the people
22 above him as well. My goal was to give it to him and
23 Carla Borrelli. That was my instruction. Write it
24 as detailed as possible and give it to them.

25 Q. But you do not know what their purpose was

1 for it?

2 A. I do not know 100 percent. No, sir, I do not
3 know.

4 Q. All right. Would you look back at Document
5 M, the actual assessment?

6 A. Document N?

7 Q. "M," as in Mary. It should already be in
8 front of you. This is the actual assessment that
9 we --

10 A. Yes, sir.

11 Q. Okay.

12 A. Yes, sir.

13 Q. And you mentioned gaps?

14 A. Yes, sir.

15 Q. What is a gap? How do you know what a gap
16 is?

17 A. Gap, I had something else there when I first
18 sent my first draft. Mr. Maguire changed it to gap.
19 I had issue there. Mr. Maguire changed it to gap.
20 For whatever reason, I do not know. But I had issue.

21 Q. What did you originally mean by "issue"?
22 What kind of things were you looking for?

23 A. Issue, an event that is part of the lessons
24 learned, whether it be good or bad. It was issues
25 that we faced, issues that the team faced during the

1 cycle 14, sir.

2 Q. Well, let's turn to -- it's Page 6. The
3 Bates number is 4037.

4 A. Yes, sir, I have 4037.

5 Q. And we have the first gap. What was that
6 about?

7 A. The refuel team laid off all their people at
8 the end of the outage, and there was nobody left, and
9 all of their stuff was left up on the floor. Stuff
10 that weighs tons, multiple tons. We had to remove
11 that stuff off the floor for them before we could
12 start the harvest, which impacted our schedule.

13 Q. It affected your schedule. When did that
14 happen?

15 A. Right after the outage. I want to say
16 April-ish. I'm not -- that's an approximation.

17 Q. Okay. Thank you. But you're noting a gap
18 that impacted schedule?

19 A. Yes, sir.

20 Q. Number 2. And you have some dates here of
21 May?

22 A. Yes, sir.

23 Q. And in the note it mentions schedule delays.
24 Was this gap also about scheduling?

25 A. Yes, sir. There was people on the floor

1 without the first line supervisor, Jaycen West, and
2 the TVA foreman, Benny Crownover, so they had to set
3 up a temporary foreman until they got back.

4 Q. All right. Well, look at Number 3.

5 A. Yes, sir.

6 Q. And what was the issue there?

7 A. We had an agreement prior to the start with
8 TVA MMG. When I say "we," I was at the meeting with
9 Mr. Maguire, Carla Borrelli, Greg Whitehorn with TVA
10 MMG management, and it was agreed that the tritium
11 would work in order to meet the schedule. They'd
12 harvest as many -- our daily necessity rods. It
13 would have to be on a ten-hour shift because of our
14 radiological concerns in our RWP, radiological work
15 permit. And that was the agreement. And some of the
16 TVA employees, the annual guys, left in eight hours
17 and went home.

18 Q. What problems did that cause?

19 A. You had to have -- in order to perform an
20 operation of harvesting, everybody has to be in
21 place.

22 Q. So was it delayed?

23 A. Yes, sir, it was delayed. We had -- we had
24 to shut down harvesting because of radiological
25 concerns. Only so many people can be in the zone for

1 dose, what they call a jump, and the TVA employees,
2 some went home. The annual boilermakers said that
3 they didn't have to work ten hours, and they left in
4 eight.

5 Q. Number 4, gap number 4.

6 A. Yes, sir.

7 Q. This refers to something that occurred in May
8 is what it looks like?

9 A. Yes, sir.

10 Q. What was the impact of this problem?

11 A. The impact of this problem right here is
12 where a TVA employee, annual boilermaker, dropped a
13 stainless steel large clip into the cask loading area
14 of the spent fuel pool, and instead of trying to
15 retrieve what was dropped, he left the floor and went
16 home. So the remaining personnel, not just him,
17 other boilermakers went home, and we had to get
18 people dressed out to go in the zone, the C zone,
19 known as the containment zone, get dressed out and be
20 around the spent fuel pool, which is highly
21 radioactive, to retrieve the FME, "foreign material
22 exclusion," that was dropped in the pool. We
23 couldn't proceed further until it was removed.

24 Q. Did you witness that --

25 A. Yes.

1 Q. -- the removal?

2 A. Yes, sir, I did.

3 Q. And you said there was a CR. Did you do the
4 CR?

5 A. I think I did, sir.

6 Q. Was safety compromised in the cleanup
7 process?

8 A. Personal safety, if you're referring to that.
9 As far as a nuclear safety concern, it was the -- you
10 can make an issue on it, but personal safety we
11 had -- people had to go back in for a jump that had
12 already been in there for a possible dose exposure.
13 On millirem, you're picking up dose.

14 Q. When you arrived, did you handle that
15 properly?

16 A. Did I what, sir?

17 Q. Handle the situation properly. Was it
18 properly handled in the aftermath?

19 A. As far as removing the piece, yes, sir.

20 Q. Was the person disciplined in any way, to
21 your knowledge?

22 A. I do not know that. I turned that over to
23 Mr. Maguire. And I want to say -- I don't know on
24 the TVA side of the house which direction that took,
25 really. The CR -- the CR itself would have been

1 addressed in a corrective action, a CAP, a C-A-P.

2 Q. Do you know when that was wrapped up, the
3 corrective actions were wrapped up?

4 A. I do not know that, sir.

5 Q. Was that no longer your concern at that
6 point?

7 A. No, it was always my concern, but as far as
8 discipline and coaching and whatever, that was
9 handled through the MMG side of the house.

10 Q. The corrective action program, was that
11 completed?

12 A. I do not know that, sir. All I did was
13 generate the CR, establish the condition --

14 Q. Oh, it's frozen. Can you hear me?

15 A. I can hear you, but you're frozen.

16 Q. Hello.

17 A. Yes, sir. I'm here, sir. Mr. Mealor, I can
18 hear you, sir.

19 Q. Hey. Okay. We were gone for a little bit.

20 A. That's okay, sir.

21 Q. I had asked whether the corrective action
22 program, or the CAP, was completed.

23 A. I'm not -- I have no knowledge of that, sir.

24 Q. Okay.

25 A. I don't have memory of it, sir.

1 Q. Was it -- was this still a hot concern in
2 July, this incident?

3 A. This incident, sir? It's a trend.

4 Q. Yeah.

5 A. It's a trend. Yes, sir.

6 Q. Okay. So it was one among many incidents,
7 but this particular thing that happened between
8 May 4th and May -- in May, was that resolved?

9 A. I cannot remember, but I just want to
10 clarify. Things are dropped in the spent fuel pool
11 frequently. The problem is leaving -- leaving it
12 there.

13 Q. Okay. Thank you. That clarification does
14 help. Number 5.

15 A. Yes, sir. Number 5 is that the tritium
16 sustainment group -- I'm sorry, ask the question.
17 I'm sorry, sir, I'm leading you. I'm sorry.

18 Q. Well, we are establishing our own trend here.
19 Do you know what the problem was? And I see
20 at the bottom of the first paragraph there,
21 unnecessary delay?

22 A. Where are you at, sir?

23 Q. Page 4039.

24 A. Yes, sir.

25 Q. Number 5.

1 A. Yes, sir.

2 Q. And that paragraph starts, "During the
3 initial harvesting process," and ends with the
4 sentence, "this caused several unnecessary delays and
5 added time to the project."

6 A. Yes, sir.

7 Q. So was timing, scheduling delays, was that
8 the main concern here?

9 A. Yes, sir. We had a -- we had a window. We
10 had a window before the outage, the fall outage in
11 2017. This was our window.

12 Q. Number 6.

13 A. I'm there, sir.

14 Q. What was the issue?

15 A. A FATF, F-A-T-F, is known as a fuel assembly
16 transfer form, the FATF -- I'll note it as the
17 FATF -- is obtained -- that document is obtained from
18 Reactor Engineering at Watts Bar. They're the ones
19 who tell us which fuel assembly has tritium rods in
20 it and which ones we can harvest.

21 So I am given this document by Reactor
22 Engineering and this FATF list has to go in our work
23 order, our tritium work order. The problem here was,
24 there was assemblies that we had to harvest within
25 8 feet of the weir gate inside the spent fuel pool.

1 Q. What cost or problem did that cause the
2 project?

3 A. At the time the -- I want to make sure I say
4 this right -- inside the weir gate -- the weir gate
5 is a large metal door that weighs several tons. It
6 acts as a big stop for the transfer -- the fuel
7 transfer canal. That's how fuel assemblies are moved
8 out of the core and moved to the spent fuel pool.

9 Without water in it, the radiological effect
10 within 8 feet of the weir gate can cause a shine
11 effect, like a mirror. An example, you flash a
12 flashlight into a mirror and the reflection will show
13 up on the wall somewhere. But it's the same concept
14 with a shine effect with radiological dose,
15 contamination.

16 Q. And it looks like y'all had decided on a plan
17 to fix this issue?

18 A. Yes, sir. Over a weekend is to fill these
19 transfer canals with water. Water is shielding for
20 radiological contamination.

21 Q. And what was the -- did that cause delays?
22 Did that cost money? What was the problem? Why
23 would this raise eyebrows?

24 A. It was just -- it was an issue that we had to
25 stop. We couldn't harvest those rods within the

1 8 feet till the water got in the canal. Had to get
2 Reactor Engineering. It was a lessons learned for
3 everybody.

4 Q. Okay. Gap 8 and --

5 A. I'm there, sir.

6 Q. Yeah. Real briefly, what was this about?

7 A. This right here is where the TPBAR, the
8 tool -- I'm sorry, the bridge crane had had a loaded
9 TPBAR assembly baseplate/hub on the hook, and it was
10 dropped onto the pitchfork, the tritium -- the upper
11 tritium consolidation fixture, known as the TCF, and
12 it was dropped on the pitchfork, bending a thimble,
13 which procedurally they have to go in a pitchfork a
14 certain way, and they're harvested by our cameras,
15 our cameras for viewing. And this is where the
16 tritium -- the hub was dropped, bent the thimble, and
17 had the unauthorized fix. This was the date.

18 Q. Okay. This is the one that has been
19 discussed quite a bit, this thimble plug that you
20 mentioned earlier in your conversation as a safety
21 issue, or is that gap 9?

22 A. Yes, sir. I'm sorry, you are correct. I
23 misspoke. What I said earlier is not correct. This
24 is where the same employee was jamming the de-torque
25 tool on top of the tritium BAR and -- if I can

1 remember this correctly -- when he jammed it on
2 there, he jammed it on like -- it's hard to -- I
3 don't even know how to give an example, but he
4 couldn't pull the tool off. And on camera -- this is
5 how you watch things. We have cameras and big screen
6 TVs that we can see, everybody can see what's going
7 on -- he started jerking it.

8 Now, the jerking of the hex nut on top of the
9 TPBAR is right around 50 inch pounds, not foot
10 pounds, inch pounds, roughly finger tight, depending
11 on who you are. And he could have dropped the rod.
12 So instead of just stopping, he get going and jerking
13 this thing, nearly jerking the hub off the pitchfork.

14 Q. And was this one of these inexperienced TVA
15 employees?

16 A. Yes, sir, it was.

17 Q. And I see there's an action. This was
18 addressed at the time, immediately?

19 A. Yes, sir, and it was addressed not just
20 there, but it was addressed in the morning pre-job
21 brief that we conducted with all members, as a whole,
22 so we all were on the same page.

23 Q. How did you learn of this incident?

24 A. If I'm not mistaken, I was there when it
25 started happening, sir.

1 Q. And who decided to make it an incident and
2 share it with other people?

3 A. Well, that would come from me. Anybody can
4 coach anybody, contractor, TVA alike, at Watts Bar,
5 coaching, human error.

6 Q. Okay. But -- okay. Do you remember who it
7 was?

8 A. Yes, sir, I do.

9 Q. Okay. Who?

10 A. Anthony --

11 Q. I'm sorry. Let me be more clear. Who was
12 the person that said, let's do, I guess, a lessons
13 learned or a briefing and brief other people about
14 this incident?

15 A. Lessons learned are pretty much discussed at
16 a -- coachings are done daily, sir.

17 Q. Okay. So this was a coaching like to the
18 team?

19 A. Yes, sir.

20 Q. Okay. Who did the coaching to the team?

21 A. Myself and Jaycen West, the TVA supervisor.

22 Q. Okay. Thank you. I do want to go back to
23 gap 7. Is gap 7 related to gap 6?

24 A. Yes, sir, it is. That was on the ALARA plan.
25 ALARA stands for as low as reasonably achievable.

1 And you have to have a radiological ALARA plan to be
2 around the spent fuel pool and everything; the
3 radiological effects inside containment. And one,
4 there was conflict between a -- there was conflict
5 between two different -- our ALARA plan, which was
6 given to us by radiological protection, known as
7 RADCON, radiological control, that was in our
8 conflict with the RCI procedure, which stands for, I
9 think, radiological control instruction.

10 Q. How did you hear of this problem?

11 A. The -- I believe one of the RAD -- I don't
12 know. I believe it was one of the RADCON personnel,
13 but I could be wrong about that.

14 Q. Was this a well-known problem?

15 A. It was more or less discovered during our --
16 during our tritium harvesting, we would be pretty
17 much the only ones doing work in a spent fuel pool
18 without a -- without water in the canal or around the
19 weir gate. During refueling and outages, the water
20 is full for transfers. So that's -- that's about as
21 much as I can comment on it, and I could be wrong
22 about that.

23 Q. Okay. It sounds like y'all were handling
24 this as a team; is that correct?

25 A. Say again, sir.

1 Q. Were you handling this as a team?

2 A. Yes, sir. We got the right people involved.
3 RADCON personnel ops involved, and Mr. Maguire was
4 involved with some of this.

5 Q. Thank you. All right. Let's go back to --
6 up to gap 9. And, you know, keeping an eye on this
7 document, can we pull up Document Q?

8 THE REPORTER: Are you marking this one,
9 Counsel?

10 MR. MEALOR: Please.

11 (Document was marked for identification
12 as Exhibit Number Q.)

13 BY MR. MEALOR:

14 Q. Are you ready?

15 A. Give me one second, sir. I'm trying to get
16 these out of my way. Okay, yes, sir, I think so.

17 Q. All right. Do you recognize this e-mail?

18 A. Yes, sir, I do.

19 Q. And is this about the same incident that is
20 discussed in gap 9?

21 A. Yes, sir, it is.

22 Q. And this mentions that you were -- were you
23 on a conference call when this happened?

24 A. Yes, sir, I was. Jaycen West, the TVA
25 supervisor was with me. He had never been a part of

1 the conference call. And I was on a tritium
2 sustainment group conference call with the other
3 agencies.

4 Q. How did you hear about the incident then?

5 A. I got a phone call during the meeting.

6 Q. Who called you?

7 A. Steve Romines, the camera operator.

8 Q. All right. And you said West was with you.
9 So who was in charge at that time then?

10 A. The foreman, Benny Crownover.

11 Q. Okay. And was Mr. Crownover, was he on top
12 of things? Was he handling the situation well?

13 A. No, sir, obviously, he wasn't.

14 Q. Okay. So Romines discovered and realized
15 there was a problem. He brought it to you and to
16 West?

17 A. I don't know if he brought it to West. He
18 brought an issue to me, a safety concern to me.

19 Q. Okay. And --

20 A. Once I got to the floor, the refuel floor.

21 Q. All right. And who all heard about this? I
22 mean, was this a topic of conversation around the
23 proverbial watercooler?

24 A. No, sir. There is -- we work -- do you want
25 me to explain, sir?

1 Q. Yes. Yes.

2 A. All of our team members have headsets,
3 voice-communicated activated headsets. The entire
4 team has a headset on their head that's either in the
5 zone or part of the evolution. So at any given one
6 time, there would be 15 people with a headset on.
7 The only way to communicate -- the only way to
8 communicate in the zone, outside the zone, is by
9 voice-activated headset. The entire team heard and
10 seen.

11 We have cameras, TVs, 60-inch TVs mounted on
12 the wall, plus our recording -- our mandatory
13 recording device units, known as a MOCU, M-O-C-U,
14 motor operated control unit, that records everything
15 when irradiated parts are moving through the water.
16 Everybody on the headsets is watching TVs, monitors,
17 and everybody saw it, everybody heard the
18 communications.

19 Q. And it looks like, by this e-mail, afterwards
20 you reported to Jeff and Carla what had happened?

21 A. Yes, sir, and Lukus Barnes and Andrew Huth.
22 They are both -- at the time, Lukus Barnes was the
23 radiological engineer manager, and Andrew Huth was
24 the radiological -- Reactor Engineering. I
25 rephrase --

1 Q. Were other people -- go ahead.

2 A. Lukus Barnes was the Reactor Engineering.
3 They're the engineer manager and engineer over the
4 tritium program, are for the tritium program.

5 Q. Were there other people who were looped in
6 that day or maybe by the next day?

7 A. I'm sorry. What was the question?

8 Q. Who else had been looped into this issue?

9 A. Did you say "looped," L-O-O-P-E-D?

10 Q. Yes, yes. Who else was notified?

11 A. On my -- I notified Jeff Maguire, Carla
12 Borrelli. I spoke about it with Greg Whitehorn. The
13 entire team. Radiological protection part of the
14 team. But there was discussions with folks within a
15 quick -- that day -- that day was mainly just to get
16 rid of the -- just get the hub harvested and make the
17 hub waste and get the BARs off of it.

18 Q. The last sentence of the e-mail says, Steve
19 Cook told Jaycen West to do a CR"?

20 A. Yes, sir.

21 Q. Did you -- so was that decision made apart
22 from you?

23 A. Yes, sir. Jaycen West, being a TVA MMG
24 supervisor, would have answered to Steve Cook
25 concerning issues of TVA MMG employees.

1 Q. And were they alerting their superiors of
2 this issue as well?

3 A. I do not know that, sir.

4 Q. Okay. And I'm looking back to your
5 assessment, Exhibit M, and back at, you know,
6 Page 4042, and that action mentions having to shut
7 down the process; correct?

8 A. Hold on one second, sir. I'm trying to get
9 there.

10 Q. Sure.

11 A. Oh, I've got "M" already opened. I'm sorry.
12 Where are you at? 4042. I'm sorry. I've got it.

13 Q. Yeah, so I'm at 4042, gap number 9, that
14 paragraph on action, and it mentions shutting down,
15 what, five days?

16 A. Yes, sir, for a safety stand-down.

17 Q. What's a safety stand-down?

18 A. To -- when you have a trend of issues
19 starting to happen -- now this is my version. When
20 you have a trend of issues, regardless of how they
21 happen, you do a safety stand-down. You talk about
22 it. You take people away from the job and try to get
23 refocused through coaching, whatever. But I was not
24 a part -- I was a part of the stand-down, but the
25 employees, at that point, for that part of the

1 stand-down, were with Steve Cook.

2 Q. All right. So you believe that Steve Cook
3 was probably the one handling the safety stand-down?

4 A. Yes, sir, he came in that morning, the
5 following morning, in our morning pre-job brief, and
6 that was his decision. I believe Mr. Maguire was
7 there. I'm not for sure, but I know he stated that
8 there would be a safety stand-down concerning the
9 incident and the trends that were happening.

10 Q. Thank you. Gap 10, and the dates indicate
11 something happened in late June, early July, and the
12 project was suspended; is that correct?

13 A. That's correct, sir.

14 Q. And the conclusion -- the following
15 paragraph, right there at the bottom, discusses the
16 consolidation could not be completed, and there were
17 empty hubs on spent fuel assemblies that could not be
18 moved. Does that mean you had to spend extra time
19 doing, I guess, additional tasks?

20 MR. JOHNSON: Excuse me. Can you tell me
21 what the question is on the floor? So I guess I'm
22 objecting to form. If you can tell us what your
23 question is.

24 BY MR. MEALOR:

25 Q. My question is, is my summary correct that

1 there was a skeleton crew, that the project was
2 suspended, and the problem was the consolidation
3 could not be completed, and there was extra work?

4 A. There was other work scheduled for the Fourth
5 of July holiday that was outside of tritium that
6 prevented us to go further. Throughout the plant
7 the -- Watts Bar had other schedules for -- for those
8 holidays, which involved activities that helped or
9 was part of the tritium program crane, the aux crane,
10 auxiliary crane, things like that, outside the
11 facility.

12 The water was drained in the canal. There
13 was another issue there. It was just -- so that just
14 caused an issue, and we picked back up when those
15 items -- when the canal was filled back up and when
16 the crane was fixed.

17 Q. By "issue," do you mean more delays and more
18 work to be done?

19 A. It -- I don't have a recollection of that
20 really. I would be speculating on what we done
21 there. I could read off of this what we done, but
22 that would be the answer that I would give. But as
23 far as --

24 Q. All right. Number 11 uses a term RWP hours.
25 What is "RWP" hours?

1 A. Radiological work permit. To go inside
2 containment, you have to scan your badge. You have
3 to log in electronically on a RWP number, and that
4 when you scan your badge, the electronic system
5 records your time inside containment on your RWP that
6 you signed in on.

7 Q. Why is this a gap?

8 A. Because all of our work -- the TVA employees
9 that were -- every month Carla Borrelli and
10 Mr. Maguire sent me the monthly hours charged to
11 tritium. It's a particular cost code. And I knew
12 with the amount of hours that was being represented
13 being charged, I knew that wasn't the case. So I was
14 supplied through RADCON the RWP hours for each
15 employee.

16 All of our work is done on the refuel floor,
17 nowhere else but the refuel floor, and the hours of
18 some of the TVA employees did not match.

19 But there was also a cost code, a charge code
20 set up for a TVA foreman and TVA supervisor. Then we
21 had multiple TVA employees charging to that number as
22 well, which is higher pay, and it brought up flags,
23 sir.

24 Q. Gap 12, was this about overtime being
25 charged?

1 A. Yes, sir.

2 Q. And also of TVA employees leaving the over
3 and hour. What does that mean?

4 A. Okay. The entire gap also involved Day &
5 Zimmermann employees. They were augmented to TVA
6 when they were not on tritium. When we were doing
7 the safety stand-down and other issues where we
8 couldn't work, they were responsible and answered to
9 Steve Cook. These people were put onto other TVA
10 assignments doing regular mechanical work somewhere
11 within the facility, but yet they were charging their
12 time to the tritium program. And the MMG employees,
13 we got a record from their badge in, badge out, and
14 some hours are being charged, but they wasn't even on
15 site.

16 Q. Thank you. What was the issue for gap 3 --
17 13, gap 13?

18 A. Okay. A lot of this right here came from
19 Mr. Maguire. I can speak on the ones that I know of,
20 that I can speak about, that I remember he did
21 explain these to me, but we'll start with the first
22 one.

23 Q. Well, I think that's okay. Is this coming
24 from Mr. Maguire?

25 A. I can answer for the second one, the second

1 bullet.

2 Q. Okay.

3 A. That is the fatigue rule. Working on a
4 safety-related component inside the facility falls
5 under a fatigue rule. You can only work so many
6 hours, then you have to have a mandatory day off or
7 you have an NRC rule violation and a fine from the
8 NRC. This is a very strict guideline.

9 So with the employees being put on other --
10 we on the tritium was excluded from the fatigue rule,
11 known as the fatigue rule, fatigue procedure. But
12 when the employees went to work, they were utilized
13 somewhere else and charging to tritium, they were put
14 on other work safety related, which put them into the
15 fatigue rule. And then because of their hours, they
16 couldn't work past a certain hour, which they had to
17 be sent home because of they worked outside the
18 tritium program on something else.

19 Q. And that -- was that one from Mr. Maguire?

20 A. What was the question, sir?

21 Q. Did Mr. Maguire make that point and put that
22 point in there?

23 A. Yes, sir.

24 Q. Is that one that you had identified and
25 reported to him?

1 A. Yes, sir. That was part of the -- when I was
2 doing the TVA -- I mean, the tritium program gets an
3 audit from TVA OIG, and the tritium sustainment
4 group, DEO, on the money being spent, and I had to
5 sign my name. Those e-mails exist from between me
6 and Carla Borrelli, and I have to sign my name on
7 their hours. And the craft hours were noticed by me.
8 As part of our monthly signoff, I started seeing
9 issues with things I knew weren't true.

10 Q. And was OI -- you said OIG. Is OIG --

11 A. Those do not -- that's what Mr. Maguire told
12 me because it's DOE funds. So I'm only repeating
13 what he told me. I've never seen -- the TVA OIG
14 would never come to me and audit anything as far as
15 tritium is concerned, but that's above me.

16 Q. Did anyone investigate the problem you
17 mentioned with the fatigue program?

18 A. I do not know an answer to that, sir.

19 Q. Were you the one that discovered the problem
20 with the fatigue program? Were you the first one?

21 A. I don't -- I discovered it when the
22 employees, the TVA guys, told me that their hours --
23 they have to go home, they're being forced to go
24 home. There is a fatigue person assigned to every
25 contractor and TVA that monitors people's hours

1 against the fatigue rule and safety-related items.
2 So they would come to Jaycen West and myself, and
3 they would have to be excluded from the tritium
4 activities that day and be sent home.

5 Q. Okay. And the problem with this gap that you
6 mentioned to us, that people are having to leave
7 work, was that the problem?

8 A. Yes, sir. They were a tritium resource, and
9 they couldn't be used because they had moved out to
10 something else.

11 Q. And that caused delays?

12 A. It caused other people to be exposed to
13 radiological dose, but some of these employees were
14 also brought in on a weekend when tritium was not
15 going on, where they would work on a safety-related
16 item. Part of a TVA MMG function, which knocked them
17 out of working so many hours.

18 Our tritium program is not designed for this
19 many people, this many days a week, this many hours a
20 day. Anything that interrupts that is a problem to
21 the -- is a problem to the tritium program,
22 harvesting.

23 Q. Okay. Thank you. Now, hold onto this
24 document. We'll come back to it. But can we look at
25 Document O? This will be the big one.

1 MR. MEALOR: And, yes, we should admit
2 this.

3 (Document was marked for identification
4 as Exhibit Number O.)

5 BY MR. MEALOR:

6 Q. Let me know when you're ready.

7 A. I have it, sir.

8 Q. Thank you. Do you recognize it?

9 A. Yes, sir, I do.

10 Q. And is this the condition report authored by
11 Mr. Cusick that adopted --

12 A. It appears to be.

13 Q. This is the one that adopted the gaps that we
14 had just gone through; correct?

15 A. Yes, sir, it appears to be so.

16 Q. Okay. Earlier today you had mentioned that
17 Mr. Cusick had called you in to discuss a safety
18 concern?

19 A. Yes, sir.

20 Q. And just kind of backtracking a little bit,
21 that's what led to this CR; right?

22 A. Yes, sir.

23 Q. You said you did not know who raised the
24 safety concern, but did Mr. Cusick discuss with you
25 what the safety concern was?

1 A. Yes, sir, he did.

2 Q. What was the safety concern?

3 A. The safety concern was a trend of issues that
4 had been occurring on the tritium sustainment group,
5 but where an employee was asked to violate procedure
6 and turn off cameras where an authorized fix was to
7 occur, as though it never happened.

8 Q. And is this referring specifically to the
9 June incident that you were called out of your
10 meeting?

11 A. Yes, sir.

12 Q. And how was turning off the camera safety
13 related?

14 A. The TVA procedure states in our -- the
15 F-fueling handling instructions state that all parts
16 that are moved and are irradiated have to be recorded
17 by camera for the entire move. We don't -- the hub
18 was suspended, and no camera can be turned off. No
19 exceptions.

20 Q. So when did he -- what did Mr. Cusick ask you
21 about this?

22 A. He asked me if I was there when it occurred.

23 Q. And what all did you tell him?

24 A. I told him that I wasn't there. He asked
25 questions, and I answered the questions.

1 Q. Okay. Was that the end of the conversation
2 then?

3 A. No, sir. It wasn't very long. He asked me
4 if -- who was the foreman at the time. I told him
5 who it was. He asked me was I told that if the
6 camera was asked to be turned off. I told him that I
7 was. I was told about that situation. He asked me
8 did I see it. I said I did on a -- when we rewind
9 the tape, the videos, and I saw it for myself.

10 And he had asked me my steps. I told him I
11 contacted my chain of command, which was Mr. Maguire,
12 and that we got ahold of RADCON engineering to
13 successfully remove the rods, turn it around
14 backwards to get them off.

15 And then I informed him that I was already in
16 progress of writing an assessment that will
17 address -- there was other -- he said, was there a
18 lot of other issues during the campaign? I said,
19 yes. I told him I was doing an assessment that would
20 explain everything. He asked me if I would give him
21 a copy. I told him that I could not. That when I'm
22 done with it I'll give it to Mr. Maguire, and
23 Mr. Maguire and Ms. Borrelli would be the ones if he
24 wanted it.

25 Then he e-mailed me, asked me a question

1 about bending a thimble plug. I told him there was a
2 procedure that does that, but that procedure does not
3 apply to tritium. Only a fuel assembling for new
4 fuel. It doesn't apply to us.

5 Q. And you earlier had said that you told people
6 that you were going to talk to somebody about a
7 safety concern and afterwards. You've already
8 testified about that.

9 Did you get into the details about what the
10 safety concern was and what the conversation was with
11 these other people?

12 A. I'm sorry. What was the question again, the
13 first part of your question? I'm sorry.

14 Q. Earlier today you testified that you told
15 people that you were meeting Cusick?

16 A. Yes, sir, I did.

17 Q. Did you tell them what the conversation was
18 about?

19 A. Yes, sir, I did.

20 Q. In what level of detail?

21 A. Pretty much everything that I told you; that
22 there was a safety concern, nuclear safety concern.
23 I've been called to testify. And it involved Day &
24 Zimmermann, TVA personnel, and that he's
25 investigating, and other people might be questioned

1 on this besides me.

2 Q. Did you talk to any TVA employees about this
3 besides Mr. Maguire?

4 A. Yes, sir, I did.

5 Q. Who?

6 A. Greg Whitehorn. Over a period of time or
7 immediately? Just the interview? I don't understand
8 your question.

9 Q. Immediately.

10 A. You just want TVA employees?

11 Q. Yes.

12 A. Okay. Greg Whitehorn, Ruth Traugott, she was
13 there. I talked to her after I left his --
14 Mr. Cusick's office. Their office is right there. I
15 talked with Jeff Maguire, if I hadn't already said
16 him. Jeff Maguire. Jaycen West, the TVA supervisor.
17 I think that's all I can remember right now, sir.

18 Q. Were they already -- did any of them already
19 know about this investigation by Cusick?

20 MR. JOHNSON: Object to form. You can
21 answer.

22 THE WITNESS: I think so. I don't think
23 I was the first one up to bat. There was already
24 some chitchat between Jaycen West and myself. There
25 was -- Benny Crownover had mentioned it to me, the

1 TVA foreman over it, that he was interviewed by
2 Cusick. And he told me that he admitted to turning
3 off the camera, or asking a man to turn off the
4 camera. He didn't think it was a problem. But
5 that's about as much as I remember about mine and his
6 conversation.

7 BY MR. MEALOR:

8 Q. And the CR that we have in front of us,
9 Document O, this is the CR that came out of that.
10 Was there another CR that came out that would be more
11 specifically related to turning off the camera?

12 A. This right here, to my understanding, is just
13 the CR for the investigation in the nuclear safety
14 concern. If I'm not mistaken, Jaycen West was
15 directed by Steve Cook to generate a CR as well
16 concerning the drop.

17 Q. You said the CR is about a nuclear safety
18 concern, the one we have in front of us --

19 A. Yes, sir.

20 Q. -- 1357390? Where does it say that?

21 A. That's what Mr. Cusick told me. I'm only --
22 he told me it was about a nuclear safety concern.
23 That's what was reported to him.

24 Q. Okay. Where does the CR say it is nuclear
25 safety?

1 A. Do what, sir?

2 Q. Where does this condition report say that it
3 is about nuclear safety?

4 A. I do not know, sir. All I can tell you is
5 what Mr. Cusick called me to be a witness to.

6 Q. Okay. Look on Page 719.

7 A. What is it, sir? What page?

8 Q. Page 719. 719.

9 A. Okay. I'm there, sir.

10 Q. Thank you. You see where it says, "potential
11 safety"?

12 A. I do see that, sir.

13 Q. "Potential safety, N. Violation notice
14 required. No."

15 A. Yes, sir, I see that.

16 Q. Is that where this would say this would be
17 about safety?

18 A. Excuse me, sir, what was the question?

19 Q. Is this where a condition report -- you
20 filled out condition reports before, you said. Is
21 this where a condition report would indicate that
22 this is about safety?

23 A. I guess it is, sir, but when I -- I just do
24 the current condition. All of this other comes from
25 the corrective action review board.

1 Q. Oh, okay. Is your name mentioned in this
2 condition report, do you recall?

3 A. No, sir, it is not.

4 Q. Are you mentioned by title?

5 A. No, sir, I am not.

6 Q. This report does list the senior tritium
7 project manager. Who is that?

8 A. It mentions what, where, sir?

9 Q. The senior tritium project manager.

10 A. Yes, sir. That title belongs to either Jeff
11 Maguire or Carla Borrelli.

12 Q. Is there any way someone who is just reading
13 this condition report would be able to link it to
14 you?

15 MR. JOHNSON: Object to form.

16 THE WITNESS: I would be speculating on
17 that, sir. I can't answer that.

18 BY MR. MEALOR:

19 Q. All right. So it's not evident?

20 MR. JOHNSON: Object to form.

21 THE WITNESS: The only way this could be
22 related to me right here, that my evaluation is
23 nearly written word for word in the condition
24 details. It's an identical match page for page, line
25 by line, gap by gap.

1 BY MR. MEALOR:

2 Q. Okay. Let's go back to your assessment
3 report then.

4 A. Yes, sir.

5 Q. Where does your safety report mention a new
6 safety violation?

7 A. A what, sir?

8 Q. A safety violation. Where does it mention a
9 safety violation?

10 A. Are you talking about the actual word,
11 "safety"?

12 Q. We could start there. Does it mention --
13 does it have the word "safety"?

14 A. I don't know. I would have to reread the
15 whole thing.

16 MR. JOHNSON: Yeah, I object to the form
17 of the question. You've got a huge document here.

18 BY MR. MEALOR:

19 Q. And this is -- this is the report that you
20 wrote?

21 A. Yes, sir, that's correct.

22 Q. That's what we are looking at?

23 A. Yes, sir.

24 Q. Did you, in your report, report a safety
25 violation that had never been reported or raised

1 before?

2 A. Everything in this assessment right here was
3 raised and reported, not only to Howard Cusick, but
4 my chain of command in TVA tritium.

5 Q. Prior to your report?

6 A. Yes, sir. This was collective -- this was a
7 collective over the harvesting. The report here is a
8 collection of events that led up to everything that
9 was reported by either a CR or reported to my chain
10 of command at TVA.

11 Q. Does this evaluation assessment mention any
12 NRC violations?

13 A. I do not know the NRC violations, but what it
14 does do is -- I can't comment on the NRC and their
15 regulations, but I can -- procedural violations, TVA
16 procedure violations, yes.

17 Q. Okay. And the main point, you said this
18 before, is about the use of inexperienced employees
19 or employees who are not always available for one
20 reason or another; is that correct?

21 A. Yes, sir, that would be a fair statement.
22 Yes, sir.

23 Q. Well, in your experience, how are new
24 employees -- are new employees seen as a safety
25 violation?

1 A. Could you repeat the question, sir?

2 Q. Are having new employees work on a task a
3 safety issue?

4 A. It can lead to one because of their lack of
5 wanting to participate, yes, sir.

6 Q. It's a potential one based on their attitude;
7 is that what you're saying?

8 A. Not just that. It could be a number of
9 things, but that would be part of it, yes, sir.

10 Q. And were you trying to make the position that
11 TVA would need to retain or continue to use DZ's
12 staff aug employees on the tritium project?

13 A. Okay. I'm -- I'm sorry, Mr. Meador. I don't
14 mean to -- could you just repeat the entire thing one
15 more time, sir, so I make sure I answer you clearly?

16 Q. Was it your position that it was a safety
17 concern for TVA to retain the staff aug employee
18 contract workers from DZ?

19 A. No, sir, that's not a true statement. My
20 concern was inexperienced people who did not want to
21 be there were being forced to be a part of a highly
22 radioactive, dangerous work, and at the time only
23 Day & Zimmermann augmented employees had the training
24 and experience to perform the job successfully with
25 limited bumps. They wanted to be there.

1 If -- my concern was, is what I had brought
2 up to my management, my TVA boss, was they need to
3 have people involved over a period of a couple of
4 cycle harvestings and watch and learn and be a part
5 slowly, to be a part of it, if they're going to fully
6 take it over.

7 Q. Thank you. Was Mr. Maguire troubled by these
8 gaps?

9 A. He didn't like them, but he was going to go
10 discuss them for future event -- I mean, to the
11 proper people. And I'm not the -- I wasn't. He went
12 up his management and across the board to upper
13 management. I'm below him. That was a conversation
14 for him and above.

15 Q. Did -- were you expecting cycle 15 to go
16 better than cycle 14 in terms of these problems
17 you've mentioned?

18 A. Yes, sir. We resolved a lot of the gaps.
19 Yes, sir.

20 Q. Would you have wanted to write another report
21 just like this for cycle 15?

22 A. Would I want to? There would be another
23 assessment and evaluation in-house, yes, sir. But,
24 yes, the goal was not to have one with a lot of
25 negatives in it for lessons learned.

1 Q. The goal was so you would not have to write
2 another bad report like this again?

3 A. Yes, sir, that would be correct. That's in
4 every goal, yes, sir.

5 Q. Who else was troubled by the gaps? I mean,
6 did anyone else express concern at the gaps you
7 mentioned?

8 A. Do you have a time frame, or up until now?

9 Q. Up until now.

10 A. The tritium team, the sustainment group, TVA
11 management, Mr. Jesse James, by what I was told and
12 what I've learned through Mr. Maguire, what I had
13 heard from Mr. Maguire, between not only his
14 deposition but prior to my termination. But prior to
15 the end of 2017, early 2018, all the way up to Paul
16 Simmons.

17 Q. What was Jesse James' concern that you heard?

18 A. Mr. Maguire told me he wasn't happy with it.
19 He was having lengthy discussions on this. He was
20 upset because there wasn't an answer to the CAP. The
21 CAP had been put into place.

22 Q. Did you talk to or hear from Mr. James about
23 this, directly from him?

24 A. No, sir, I did not.

25 Q. Did you hear that he was upset with the

1 scheduling delays that you mentioned in the gaps?

2 A. He wasn't very happy with it as a whole, the
3 assessment and the evaluation that brought to light
4 many issues. That's as far as I can tell you of that
5 with accuracy.

6 Q. Do you know anything differently about
7 Mr. Simmons?

8 A. Mr. Maguire told me that there's been three
9 serious nuclear safety concerns that made it to
10 Paul -- that's ever made it to Paul Simmons, and this
11 was one of them.

12 Q. Mr. Maguire said a safety concern?

13 A. A nuclear safety concern, yes, sir.

14 Q. Why is this a nuclear safety concern?

15 A. Because that's how it was reported, a nuclear
16 safety concern, at a nuclear facility that involved
17 nuclear radiological issues.

18 Q. Are you saying Maguire framed this as a
19 safety concern?

20 A. Yes, sir, he did.

21 Q. Was Mr. Simmons upset that there was -- I'm
22 going to scratch that. Let me go back.

23 You mentioned Mr. James, Mr. Simmons as being
24 upset. Was there anyone else at TVA at that level,
25 above Mr. Maguire's level, who was upset?

1 A. When the CR came out, that is as far as I
2 knew when the CR came out.

3 Q. And afterwards, do you know of any other
4 TVA's officials, besides Maguire -- I mean, besides
5 James and Simmons who were upset by the information
6 in that CR?

7 A. As far as the corrective action, it would
8 have addressed Mr. Tony White, when he took over from
9 Jesse James. Maguire had told me that he had met
10 with Mr. White concerning upcoming cycle 15, and they
11 had a conversation concerning that. I was not privy
12 to a lot of that, and I can't remember what he told
13 me, but that was above my pay scale.

14 Q. Do you know whether these people who were
15 upset, and you've identified James and Simmons, were
16 upset with you personally?

17 A. Was who upset with me, sir?

18 Q. Was Jesse James upset with you personally?

19 A. I cannot remember that. I do believe -- I
20 think Mr. -- I want to say that Mr. Maguire told me
21 that it brought some -- using his exact words -- some
22 negative light on exposing some issues that he was
23 not aware of that he got -- his exact words -- he got
24 called to the carpet on, and my name is all over the
25 front page of it. And so I would say the answer to

1 your question is yes.

2 Q. That is an inference, though, is that not?

3 A. I do not -- I don't understand what that
4 means.

5 Q. That was a conclusion you drew together,
6 based on what Mr. Maguire told you that Mr. James
7 said?

8 A. Yes, sir. So the answer to your question
9 would be, yes. Jesse James was pissed off with me,
10 upset with me, about this evaluation report that got
11 him called to the carpet.

12 Q. But do you believe that Mr. James had
13 preferred that the report never occurred?

14 A. I do not -- I would be speculating. I don't
15 want to -- I don't have an answer to that.

16 Q. Was Mr. James more upset over, I guess, the
17 scheduling problems and how to put the two teams
18 together, the two groups together that led to this
19 change --

20 MR. JOHNSON: Object to the form of the
21 question.

22 BY MR. MEALOR:

23 Q. -- or was he concerned about safety?

24 A. I do not know. I don't know what the
25 answer -- to give what Mr. James was thinking or

1 doing or what he thought. I don't know.

2 Q. Do you know whether Mr. Simmons was upset
3 with you personally?

4 A. I know that Mr. Maguire's told me that he had
5 a conversation with Mr. Simmons concerning this right
6 here and that he was shown this or this made it to
7 his desk, but that's as far as I know with it -- know
8 about that.

9 Q. Isn't it possible that these people would be
10 upset over the fact that there were problems?

11 MR. JOHNSON: Object to the form of the
12 question.

13 THE WITNESS: Is it possible they would
14 be upset?

15 BY MR. MEALOR:

16 Q. Yes, just to the fact that there were gaps in
17 their program.

18 A. I don't know that to be true. I would be
19 speculating. I'd be assuming. I don't -- I don't
20 know how to answer that.

21 Q. Okay. You indicated that your managers were
22 Maguire and Carla Borrelli; correct?

23 A. That is correct, sir.

24 Q. Mr. Maguire's the one who brought you on.
25 It's something that you've alleged before in the

1 complaint and other places; correct?

2 A. That is correct, sir.

3 Q. Would he have the power to terminate you?

4 A. Mr. Maguire? Yes, sir, he would. From the
5 tritium program, yes, sir, he would.

6 Q. Did he?

7 A. Did he terminate me, sir?

8 Q. Yes.

9 A. No, sir, he did not.

10 Q. Did Mr. Maguire or Ms. Borrelli or anyone
11 else in your chain of command notify you of your
12 termination?

13 A. No, sir. I notified them.

14 Q. Did they or anyone in their chain of command
15 cause you to be terminated?

16 A. In -- could you repeat the question again,
17 sir?

18 Q. Did Mr. Maguire or Ms. Borrelli or anyone in
19 their chain of command cause you to be terminated?

20 A. No, sir.

21 Q. You said that Tony White had called and
22 talked to Mr. Maguire about your impending
23 termination. Did you hear anything from Mr. White
24 directly?

25 A. I did not, sir, no.

1 Q. Do you know how much Mr. White was involved
2 in DZ's decision process?

3 A. Only by his e-mails that have been found in
4 discovery. He was attached to a lot of the e-mails.

5 Q. Is it possible that White, when he was
6 talking to Mr. Maguire, was just relating
7 information?

8 A. I can't answer that. I would be speculating.
9 I wasn't part of the conversation.

10 Q. You also mentioned that you had a
11 conversation with Greg -- was that Greg Whitehorn?

12 A. That is correct, sir.

13 Q. Whitehorn about the manway incident?

14 A. Yes, sir.

15 Q. Why did he call you, or how did y'all come to
16 talk?

17 A. He called me. He told me that he was
18 directed to follow this up. It was my day off.
19 Apparently, it was his. He had been directed to
20 investigate this, the manway incident, and he wanted
21 to know what was going on. I told him what I knew of
22 at the time, and that I had come in to put the manway
23 on. I had been called in by Freddie. It was found
24 off.

25 I came in to put the manway on. And the two

1 people -- he asked me who put it on. And I said it
2 was night shift, Terry Johnson and Kevin Davenport.
3 And that's pretty much that -- I don't remember any
4 more of the conversation. But he was directed to do
5 that.

6 Q. This is Whitehorn who had helped you with
7 your assessment?

8 A. Same one. He's the one I took the job over
9 from him as the tritium task manager.

10 Q. Were you aware of whether Tony White was
11 upset with your assessment?

12 A. I have no direct evidence of that, sir.

13 Q. Are you aware of anyone at TVA who caused you
14 to be terminated?

15 A. Yes, sir. I believe -- I believe Lee Sanders
16 was helping DeWarren write the ERB process for
17 termination; helping him what to say, by the
18 discovery we had. I believe that Meshelle Augustin
19 was a part of it. She was also helping along of what
20 to say, what not to say, what to change. I believe
21 that Mr. Maguire was purposely left out. I believe
22 that Tony White was on the e-mails, too. He knew
23 about it. He knew about the protected activities as
24 of at least November the 6th of 2018. I believe that
25 Paul Simmons was involved, that we've also learned

1 MR. MEALOR: Thank you.

2 MR. JOHNSON: Well, I have a question
3 that I want -- Paul, where are you? Are you going to
4 need to ask anything?

5 MR. LANTIS: I don't think so right now.

6 MR. JOHNSON: I'm going to have one
7 question, and I think it's going to take 60 seconds
8 so far.

9 MR. LANTIS: Fire away, Steve.

10 MR. MEALOR: Okay. Thank you.

11 BY MR. MEALOR:

12 Q. Do you know -- of the people that you
13 mentioned -- of the people that you mentioned, who
14 was involved in your termination outside of the ERB
15 process?

16 A. TVA personnel or anybody?

17 Q. Yes. Yes.

18 MR. JOHNSON: I'm still confused. He
19 said TVA personnel or anybody, and you said, yes. So
20 which?

21 MR. MEALOR: I'm sorry. All I heard was
22 TVA personnel.

23 BY MR. MEALOR:

24 Q. Which TVA personnel caused your termination
25 outside of the ERB process?

1 A. The only one person who wasn't part of the
2 ERB process by name would have been Tony White.

3 Q. And you told me that he knew of your
4 protected activity. What did he do to cause your
5 termination?

6 A. I believe that he was directing DeWarren,
7 just like he told Mr. Maguire, that it is his belief
8 that I am to be terminated over the weekend that the
9 manway was found off, that following weekend before I
10 came in on that Monday morning.

11 Q. That is your belief. You said you never
12 spoke with Mr. White?

13 A. No, sir.

14 Q. Did Mr. Maguire tell you that Mr. White had
15 talked to Mr. Washington?

16 A. Yes, sir.

17 Q. Did Mr. Maguire tell you that Mr. White
18 directed Mr. Washington to terminate you?

19 A. He did not say it in those words, no, sir.

20 Q. Do you have any idea, any fact that you can
21 give me that shows that Mr. White caused your
22 termination?

23 A. Only by Mr. Maguire telling me, sir.

24 Q. Thank you. I'm going to switch subjects real
25 fast now to letter O, the MSPB --

1 addressed, and that was confirmed to me by
2 Mr. Maguire.

3 Q. Do you know whether those documents had
4 anything to do with Mr. Simmons' decisions that may
5 or may not have happened at the ERB?

6 A. I have no -- I don't know what -- what
7 Mr. Simmons' actions or thoughts were at the time,
8 sir.

9 Q. And back to this review form, Number 2 --

10 A. Yes, sir.

11 Q. -- mentions veteran's preference
12 violations --

13 A. Yes, sir.

14 Q. -- leading to the MSPB board. Which case
15 were you talking about, the 2015 or the 2017 MSPB
16 appeal?

17 A. This would be the 2017 complaint because of
18 my -- are you wanting me to explain this, or just
19 answer yes or no to your question?

20 Q. Yeah, yes or no, which one. Yes.

21 A. This would be the 2017 complaint. The
22 veteran's preference was only part of the complaint.

23 Q. Why didn't you mention the other part to the
24 complaint?

25 A. Because I had got a -- just received a letter

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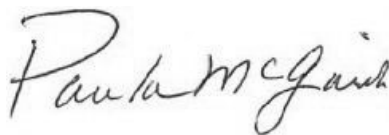
COUNTY OF HAMILTON

I, PAULA McGUIRK, RPR, LCR#789, CCR-GA, in and for the State of Tennessee, do hereby certify that the deposition of ROBERT GOFORTH was reported by me, and that the foregoing 319 pages of the transcript is a true and accurate record to the best of my knowledge, skills and ability.

I further certify that I am not related to nor an employee of counsel or any of the parties to the action, nor am I in any way financially interested in the outcome of this case.

I further certify that I am duly licensed by the Tennessee Board of Court Reporting, as evidenced by the LCR number and expiration date following my name below.

In witness whereof, I have hereunto set my hand this 27th day of September, 2021.



PAULA McGUIRK, RPR, LCR, CCR-GA
LCR#789 - Expires: 6/30/2022

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

ROBERT M. GOFORTH,

Plaintiff,

vs.

TENNESSEE VALLEY AUTHORITY
and DAY & ZIMMERMANN NPS,
INC.,

Defendants.

Case No.: 1:20-cv-254

Chattanooga, Tennessee
August 17, 2021

DEPOSITION OF JEFFREY MCGUIRE
(Appearing remotely)

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1 audibly, out loud. If you are nodding your head or
2 shaking your head or making some other gesture, she can't
3 pick that up. So you have to be sure to verbally answer
4 all my questions. Is that, is that good with you?

5 A Yes.

6 Q Okay. So, I want to ask you first about your
7 education. Tell me about your higher education.

8 A I have a bachelor of science in nuclear
9 engineering technology and a master's in engineering
10 management.

11 Q And what -- where were those from?

12 A The bachelor's of science in nuclear engineering
13 technology is from New York State University. The master
14 of science in engineering management is from University
15 of Tennessee at Chattanooga.

16 Q Have you ever served in the military?

17 A I have served in the military.

18 Q And in what service were you?

19 A I was in the Navy.

20 Q And did your service in the Navy have anything to
21 do with what your professional career turned out to be,
22 in terms of the substance of the types of things you were
23 doing?

24 A It did. It did. I was, I was in naval nuclear
25 power.

1 Q I see. And how many years did you do that?

2 A Six years.

3 Q So, once you got out of the service, I take it you
4 began employment in civilian life?

5 A That's correct.

6 Q So when you did that, just give me a quick rundown
7 of the places you worked and whether that work had
8 anything to do with the nuclear industry.

9 A For sure. I worked for four years for Pacific
10 Gas & Electric. I was a chemistry and radiological
11 protection technician at Diablo Canyon. And I worked for
12 13 years at Portland General Electric. I was a --
13 started out as an auxiliary operator at the Trojan
14 Nuclear Power Plant. At the end of those 13 yours I was
15 a shift manager, senior licensed reactor operator.

16 And then I came to Tennessee Valley Authority,
17 where I was a senior reactor operator, licensed reactor
18 operator, and a shift technical adviser at Watts Bar
19 Nuclear Power Plant. Then --

20 Q Approximately when did that begin? I'm sorry to
21 interrupt you. But before we get away from that, let me
22 just ask that.

23 A So, that began in 1993.

24 In 1999 I went to Sequoyah Nuclear Power Plant as
25 a quality assurance program manager, and then at -- in

1 2009 I became a workweek manager at Sequoyah Nuclear
2 Power Plant, and in 2010 I became the tritium program
3 manager.

4 Q At -- I'm sorry. At where?

5 A No, that's okay. Go ahead.

6 Q Was that at Watts Bar?

7 A That was at Watts Bar. Watts Bar and at
8 corporate. I have a desk in corporate and an office at
9 Watts Bar, and I go back and forth between the two.

10 Q I'm particularly interested in what you said about
11 being -- I think you called it a senior reactor operator
12 during your career, and a licensed operator. You also
13 used that term.

14 Explain those to me, in terms of what you, you
15 know, sort of do day to day at the plant when you're one
16 of those people?

17 A So, if you're a unit supervisor or a shift
18 technical adviser on an operating crew, then you have to
19 have a senior reactor operator's license from the NRC,
20 and you manage the operating crew during the day-to-day
21 things they do. And you also manage the operating crew
22 if there are any abnormal or accident conditions. Same
23 with the -- that's for the unit supervisor.

24 For the shift technical adviser, you do the same
25 thing, you manage -- help manage the crews. But during

1 accident conditions you step back and you just monitor
2 the plant and give technical advice to the senior reactor
3 operators and reactor operators.

4 Q So would you say in either of those roles that as
5 SRO -- a licensed SRO, you're basically in charge of the
6 operation of the reactor for the time that you're on
7 duty?

8 A That's correct.

9 Q And it may've gotten by me, but were you -- did
10 you say you were senior reactor operator and a licensed
11 operator while working for TVA?

12 A That's correct.

13 Q And was that at the Watts Bar plant?

14 A At the Watts Bar plant.

15 Q Do you have any other special qualifications for
16 your present job that you had at TVA, which you said was
17 the person operating the tritium program?

18 A I have a project management certification from
19 Project Management Institute. And that's pretty much,
20 pretty much it, anything that would be recognized.

21 Q Okay. Well, to go back a step, tell us again what
22 your job in the tritium program is and when you began
23 assuming that job.

24 A My job in the tritium program was to interface
25 with the Department of Energy through their National

1 Nuclear Security Administration and coordinate the
2 radiation of -- we call them TPBARs. They're
3 tritium-producing burnable poison rods -- absorber rods.
4 Tritium-producing burnable absorber rods. And that's how
5 we produce the tritium by irradiation of those rods in
6 our reactor core.

7 And it's, it's more of a project management type
8 role, to where you coordinate and manage the loading of
9 the TPBARs, and then the -- and the core design for the
10 tritium-producing cores; help manage the effluence from
11 the tritium at the plant; and then also manage the
12 harvesting of the tritium-producing burnable
13 poison -- burnable absorber rods, and shipping of the
14 TPBARs to the Savannah River site where the tritium is
15 extracted.

16 Q I know there must be a tremendous amount of
17 technical information that goes from the first step of
18 what you described when the TPBARs are in the reactor,
19 and the last step when you're shipping it, the BARS. But
20 describe, as briefly and succinctly as you can, what's
21 involved from pulling them from the reactor and kind of
22 how does that flow, and what does it flow through until
23 they're ready to ship.

24 A So let me make sure I answer your question. You
25 want to know how it flows from placing them in the

1 reactor to shipping them off-site? Would that be...

2 Q Yes. Well, I'm talking more about the extraction.
3 How long do they live inside the reactor before you're
4 ready to -- before they're fully irradiated and you pull
5 them out?

6 A Their -- our cycles are approximately 18 months
7 long. So, what we -- we load the TPBARs when we do a
8 refueling outage, and they go in with the new fuel. And
9 then when we do the next refueling outage, we take those
10 TPBARs out that have been irradiated and put new TPBARs
11 in for the next irradiation cycle.

12 Q So would that mean that the TPBARs were in the
13 reactor core with the radioactive uranium for 18 months?

14 A Approximately 18 months. The cycles are all
15 different. It's, you know -- when I say 18-month cycles,
16 it depends, you know. It could go plus or minus two
17 months. Just depending on what the cycle is, how it
18 falls. We try not to have the same refueling outages
19 scheduled at Watts Bar as we do at Sequoyah. We spread
20 it out through the valley. We have our refueling outages
21 in fall and spring when we don't have any power demand.

22 So, it -- a lot of things go into exactly when
23 it's going to be. So I guess what I'm saying, it's not
24 exactly 18 months, but there is a set schedule for it.

25 Q Okay. Well, this seems to work, kind of taking

1 this step by step to go through the process all the way
2 to where they're shipped. So let me ask you about when
3 you extract these rods from the reactor, how do you do
4 that and how do they flow to getting into some shape to
5 be shipped?

6 A All right. So, after the outage is over we will
7 take -- the TPBARs are in an assembly that fits inside of
8 the fuel assembly. And there is up to 24 TPBARs on a
9 baseplate holding the TPBARs. They go anywhere from 12
10 to 24 of these TPBARs on a baseplate.

11 We'll take that baseplate out of the spent fuel
12 assembly in the spent fuel pool, take it over to a
13 consolidation fixture, and in the consolidation fixture
14 we'll untorque the TPBARs from that baseplate, place them
15 in a canister. And when the canister's full, we'll put
16 the canister back into the spent fuel pool and complete
17 that evolution. The Canisters hold 300 TPBARs. And when
18 I say "full," probably if you looked at them you'd think
19 it was only about 60 percent full.

20 And then we will take the baseplates -- or at the
21 site they call them the hubs. They no longer have the
22 TPBARs on them. We'll put those aside. And then once
23 the consolidation part of the campaign is over, we'll
24 disassemble the consolidation fixture. And I forgot to
25 say that the first step is assembling the consolidation

1 fixture. It takes us about two weeks to mobilize for
2 this, pairing the consolidation fixture, getting it in
3 the right spot in the spent fuel pool, getting the camera
4 system working, that type of thing.

5 But anyhow, after we are done harvesting the
6 TPBARs, they're in these shipping canisters with about
7 300 TPBARs in them. We'll disassemble the consolidation
8 fixture, store it in the spent fuel pool, and then we'll
9 bring in casks that will ship the TPBAR -- the canisters,
10 the storage canisters.

11 And it takes approximately a week to go through
12 this process, to load those canisters in that cask in the
13 spent fuel pool for irradiation. It's all got to be done
14 underwater, for dose reasons. Take the production casks,
15 and we'll send those to Savannah River where the tritium
16 is extracted from the TPBARs. We'll also usually send
17 anywhere from one to four -- they're called
18 post-irradiation examination rods, to Pacific Northwest
19 National Laboratories in Richland, Washington, where
20 they'll cut those apart and hot seal them to make sure
21 that, one of two things, either everything looks like it
22 should in a regular production TPBAR, or sometimes
23 they'll put -- they call them "lead use assemblies."
24 They'll make some minor design changes that, you know,
25 might make the program better. But anyhow, those are the

1 PI, post-examination irradiation shipments. So --

2 Q Well, again, not to interrupt you, but we're
3 talking about post work after you're done with them at
4 Watts Bar, right? Now you're speaking --

5 A That's correct. I'm talking about we're done with
6 them and we're shipping everything off, out of the plant.

7 So the two shipments -- what I'm saying is the two
8 shipments we make with the TPBARs are production
9 shipments and PI shipments, two different places.

10 Q I see.

11 A Shipments go to Savannah River. The PI rods go to
12 Richland, Washington, to PNNL, Pacific Northeast National
13 Laboratories. And the third type of shipment we make are
14 the waste shipments that have the hubs or the baseplates,
15 whatever you want to call them, that the TPBARs were --
16 that were supporting the TPBARs when they were in the
17 fuel. They're highly irradiated. And that goes to
18 the -- that's a different type of cask, and it goes to
19 the Nevada Test Site to a government waste repository.

20 So, those are the three type of shipments we make.

21 Q I see. So, let's talk for a moment, then, about
22 the degree of radioactivity of the TPBARs when you first
23 extract them from the reactor core.

24 A Okay.

25 Q What is the level of radiation of those TPBARs

1 when they come out?

2 A Well, they're highly irradiated. A TPBAR assembly
3 would -- let's say with 24 TPBARs, probably reads --
4 underwater, about 20,000 rem per hour.

5 Q And at what point, in terms of rems, does an
6 object become a threat to human health and safety?

7 A So, you know, that's a long answer. I'll try to
8 make it as short as I can. There's something called
9 LD3050. And it's 400 rem -- you get -- if a person was
10 to get 400 rem, a large population, within 30 days 50
11 percent of the population would die, without medical
12 attention.

13 Q And that's 400 rems, as opposed to the 20,000 that
14 are in the TPBARs and assembly when they come out of the
15 reactor?

16 A Correct.

17 Q And do the TPBARs and the assembly retain that
18 level of radiological risk, let's call it, throughout the
19 process until they're shipped?

20 A Yes. Even after they're shipped. They, they
21 ended up buried in a concrete-lined vault at Savannah
22 River. Most of the radiation coming from that is
23 cobalt-60, which has a half life of a little over five
24 years.

25 Q And you mentioned -- you've been mentioning

1 "pools" and "underwater." How much of the process you
2 just described, from the time they're extracted from the
3 reactor core until the time you ship them, is done
4 underwater?

5 A Everything is done underwater until it's loaded
6 into a cask that has the right amount of shielding so
7 that it -- so that people won't be irradiated once the
8 cask comes out.

9 Q How long are these TPBARs?

10 A Approximately 12 feet.

11 Q And how many can fit on an assembly?

12 A Say that again, please.

13 Q How many TPBARs can fit on an assembly?

14 A So, we don't ship TPBARs on the assembly. The
15 TPBARs are on -- a TPBAR assembly has 12 to 24 TPBARs on
16 it. What we ship after we harvest them is a shipping
17 canister which holds 300 TPBARs. That's what gets
18 shipped.

19 Q But when they come out of the reactor and through
20 the process until you put them in this canister, they are
21 in the assembly?

22 A Until they're put into the canister, they're on
23 the assembly.

24 Q And do the -- does the assembly -- I think you've
25 referred to it as "the hub," the stuff that you said you

1 put in the waste to go --

2 A Right.

3 Q -- to be buried or whatever's done with it
4 afterwards, does it -- does that assembly bear the same
5 radioactivity as the TPBARs themselves?

6 A Yeah. If you look at it as high-level
7 radioactivity, yes, they're highly radioactive also.

8 Q How much water do you have to have on top of the
9 work that you're doing above the radioactive stuff in
10 order to be safe?

11 A We're required to have eight feet of water. You
12 know, to be safe, you could probably have less, but our
13 requirements are -- specifications are for eight feet of
14 water.

15 Q How deep are these pools that the assemblies
16 travel --

17 A About 40 feet.

18 Q -- through? Forty feet?

19 A Yeah.

20 Q So if you were to lose control of an assembly, it
21 might fall as far as 40 feet or -- I guess less -- you
22 know, 30 feet?

23 A Yeah, it -- yeah, it could fall as far as 30 feet,
24 that's correct.

25 Q Has any testing been done to determine if an

1 assembly can withstand a fall of that without destructive
2 effect on the TPBARs?

3 A No, there haven't been. Pacific Northwest
4 National Laboratories is working on that.

5 However, for certain, if they were to fall that
6 far you would go past the point of plastic deformation
7 with the cladding on the TPBAR.

8 So, it's, it's -- actually, if you went past about
9 a foot and a half, two feet, you would go past the point
10 of plastic deformation, with the cladding on the TPBAR.
11 Now, would that cause it to breach? Probably not, but
12 you don't know. So, all the equipment is designed to
13 handle the TPBARs to where they will not -- nothing will
14 happen that will cause them to go past the point of
15 plastic deformation.

16 For instance, when we drop a TPBAR into the
17 canister, there's a roller brake assembly and it slows
18 down the descent of the TPBAR so that it won't hit and go
19 past the point of plastic deformation.

20 Q All right. Well, let's slightly shift gears here
21 and talk about your professional relationship with
22 Mr. Goforth. Before we do that, let's talk about your
23 reporting structure in your job.

24 And I'm going to be referring, for the benefit of
25 counsel, to a document that's Document 3. And,

1 about in the suit. So, that would be correct?

2 A That's correct.

3 Q And then Keck reports to the general manager for
4 reactor engineering and fuels, right?

5 A That's correct. David Brown.

6 Q So your reporting structure -- and I believe you
7 said you had an office at corporate as well as an office
8 at Watts Bar -- is up through the nuclear fuels program,
9 it's not through the plant management itself?

10 A That's correct.

11 Q If you would look at the second page, then, of
12 that handout. And we see at the top, do we not, that
13 Paul Simmons was at this time the vice president of Watts
14 Bar Nuclear?

15 A That's correct.

16 Q So was he the senior person from TVA at the plant?

17 A Yes.

18 Q And another name that I'm interested in, because I
19 think it's somebody you reacted -- or acted with, is --
20 if you look at the third name down, in the first column,
21 you see director of maintenance, Jesse James?

22 A Yes. He was director of maintenance.

23 Q And so that would accurately --

24 A Well, it depends what time period you're talking
25 about. During the -- I believe if we're talking about

1 other people like that, but it was basically maintenance,
2 mechanical maintenance?

3 A So, it'd -- yes.

4 Q So I'm going to refer you now to your Document
5 number 2. Let me know when you're able to look at that.

6 A Okay. I've got that open.

7 Q Can you tell me what that is?

8 A Let's see. It appears to me to be a document from
9 DZ to Robert Goforth, giving him the -- offering him the
10 manager -- the position of task manager for the tritium
11 program.

12 Q And what, if anything, did you have to do with
13 Mr. Goforth being offered this job?

14 A I requested that he be given that job.

15 MR. JOHNSON: Before we proceed further, let
16 me get this marked as Exhibit 2.

17 THE REPORTER: Sir, this has a prior exhibit
18 letter, A as in apple. Do you want me to cover over that
19 or put this beneath?

20 MR. LANTIS: Why don't you cover --

21 MR. JOHNSON: Yeah, let's cover it.

22 THE REPORTER: Sure.

23 MR. LANTIS: I think that'll make it less
24 confusing.

25 (Exhibit 2 was marked for identification.)

1 MR. MEALOR: Can we identify the exhibit
2 number and the blackout and other alterations?

3 MR. JOHNSON: The blackout is just a
4 redaction of personal information that the court wants us
5 to do. It's his address.

6 Does that answer your question?

7 MR. MEALOR: Yes.

8 MR. JOHNSON: Mr. Mealor, are you -- you're
9 handling the -- defending the deposition, not
10 Mr. Bernier? Just to be clear.

11 MR. MEALOR: I am. What I would say is if I
12 have some technical difficulties, Mr. Bernier would be
13 the person to step in, if that would be okay.

14 MR. JOHNSON: Understood.

15 MR. MEALOR: Thank you.

16 BY MR. JOHNSON:

17 Q Okay. You said, if I'm quoting you correctly,
18 that you requested that Mr. Goforth have this position?

19 A That's correct.

20 Q And did you discuss this in advance with
21 Mr. Goforth?

22 A You know, I can't remember specifically discussing
23 it with him, but I'm certain that I did. I just can't
24 remember any specific discussions about that.

25 Q And why did you want Mr. Goforth for this role?

1 A So, cycle 13, the first consolidation, he was a
2 field engineer. That was his role and responsibility.
3 He took a very keen interest in the consolidation. He
4 wanted to learn, and he picked things up very fast. And
5 he really wanted to be involved with it.

6 I wanted to get more people who knew how to do
7 this. It takes about -- to be the task manager for
8 tritium consolidation and shipping campaign, it takes
9 about two times through this process to where you really
10 have it down pat and you know what's going on.

11 Greg Whitehorn had been doing the task manager's
12 position. I wanted other people who knew how to do that,
13 instead of having to just rely on one person to do it.
14 Up until that point, there were only two people who could
15 do that and had the knowledge to do it. That'd be Greg
16 Whitehorn and myself.

17 So, Robert Goforth took an interest in it, he was
18 a fast learner, and he was willing to push and learn. So
19 I wanted him to become -- take up the task manager's
20 role.

21 Also, we were increasing production of tritium in
22 the TPBARs, and it was evolving to a position that we
23 would need year-round instead of just during the
24 consolidation and shipping parts.

25 Q So was this a full-time, year-round position?

1 A At the -- yes. There was, there was work around
2 full -- around the year, getting ready for the campaigns
3 and demobilizing for the campaigns.

4 Q All right. So you were his immediate line
5 supervisor within the tritium program?

6 A I think that would be yes. Yes.

7 Q Was it your understanding, when this process was
8 worked through for Mr. Goforth to get this position, that
9 he was going to be an augmented TVA employee for the --

10 A That's correct. It was my understanding that he
11 was going to be an augmented TVA employee. It would
12 be -- if he was an augmented TVA employee, then you could
13 say he worked directly for me. If he wasn't an augmented
14 TVA employee, then technically he would be working for
15 somebody at DZ.

16 Q And you've already testified that he was working
17 directly for you in the tritium program in a full-time
18 position, with this position?

19 A Full-time, yeah. Full-time augmented position.
20 That's correct.

21 Q Okay. I'm going to show you another document,
22 which is Document 1.

23 MR. LANTIS: Did you move Document 2 in as an
24 exhibit?

25 MR. JOHNSON: I did.

1 MR. LANTIS: Document 2 became Exhibit 2.

2 Okay. Sorry about that.

3 MR. JOHNSON: It was Document 2, wasn't it?

4 THE REPORTER: Yes.

5 MR. JOHNSON: Can you pause?

6 THE REPORTER: That was the one that had that
7 Exhibit A on it.

8 MR. LANTIS: Got it. Thank you.

9 And this is Document 1?

10 BY MR. JOHNSON:

11 Q Let me know when you have that document in from of
12 you, Mr. McGuire.

13 THE REPORTER: Was that Document 1?

14 MR. JOHNSON: Yes.

15 A I have it.

16 Q All right. This is a document you will likely not
17 have seen before, but I'll ask you, just to be sure,
18 because someone from TVA may've shown it to you. Have
19 you ever seen this before?

20 A No, I haven't.

21 Q All right. This is Mr. Goforth's lawsuit. And it
22 has the date stamp of the court at the bottom that shows
23 it was filed in the court. So I'm going to ask you some
24 questions about that.

25 Okay. Let's look on the third page, at paragraphs

1 13 through 16. Are you with me?

2 A I am.

3 Q And you've already, I think, testified to this but
4 let's make sure we've got it right. It says: "McGuire
5 recruited Goforth for his TVA augmented employee position
6 and was responsible for DZ offering Goforth the position
7 as shown as Exhibit A." Exhibit A being the contract
8 that we just went over.

9 Would that be a correct statement? I think you've
10 already basically testified to this.

11 A That's correct.

12 Q Number 14: "TVA, through McGuire, controlled how
13 Goforth did his job."

14 A That's correct.

15 MR. MEALOR: Objection. Calls for an
16 opinion.

17 MR. JOHNSON: Objections are to form of the
18 question and privilege only. But I'll take that as a
19 form of the question objection, and we'll proceed.

20 BY MR. JOHNSON:

21 Q Occasionally there may be objections. And if
22 there are, you can just ignore those unless your attorney
23 directs you not to -- well, it's not your -- TVA's
24 attorney directs you not to answer. So, just kind of
25 ignore these objections. They're for the record.

1 They're for the lawyers and perhaps the judge at some
2 point. Okay?

3 A All right.

4 Q So, you answered yes to number 14, correct?

5 A That's correct.

6 Q Okay. 15. "TVA, through McGuire, provided
7 Goforth with all means for doing his job."

8 A That's correct.

9 Q 16 here is "TVA, through McGuire, determined when
10 and how long Goforth worked on a daily basis."

11 A That's correct.

12 MR. MEALOR: Objection. Form.

13 Q Okay. Let's look at 17 while we're at it also.
14 Just reading it, it says "The TVA tritium program" -- and
15 please read along with me -- "was a part of the regular
16 business of TVA." And the rest of it just gives a
17 statutory reference. But is that a correct statement,
18 that at this point --

19 A That's correct --

20 MR. MEALOR: Objection. Form.

21 Q I'm sorry, I couldn't hear the answer.

22 A That's correct.

23 Q Is Watts Bar the only site for production of
24 tritium for use by the Department of Energy for --

25 MR. MEALOR: Objection.

1 Q -- for nuclear weapons production?

2 A I'm reading it. (Reviewing document.) I would
3 have to say that is correct. The only place -- the only
4 site that -- the only place that tritium for the US
5 nuclear weapons are produced is at Watts Bar.

6 Q Now, are you responsible, in part, in your job
7 duties for preparing the budgets for the tritium program
8 that will be presented to DOE for approval?

9 A Okay. So, yes. However, there is another program
10 manager besides myself. The other program manager is
11 more involved with the budget than I am. But as far as
12 preparing the budget and getting the inputs to the
13 Department of Energy, I'm responsible for that also.

14 Q So, you would have seen all of the budget
15 proposals that go to DOE and all of the approvals that
16 come back?

17 A That's correct.

18 MR. MEALOR: Objection.

19 MR. JOHNSON: (To the reporter) Did you hear
20 the answer?

21 THE REPORTER: Yes. "That's correct."

22 MR. LANTIS: Just since there's a technology
23 delay, if I could suggest that maybe Mr. McGuire wait one
24 second so that Mr. Mealor can state an objection.
25 Because I'm having a hard time hearing the answers as

1 well over the objection.

2 So, I'm just trying to be helpful there.

3 MR. JOHNSON: And since he's going to be
4 answering the question regardless of the objection, if
5 it's to form, Mr. Mealor, you -- you know, I'm not -- if
6 you don't object until after he finishes the answer,
7 we'll take that as an objection, if he starts to answer.
8 Is that -- we're not going to be technical with you on
9 that if you state the objection after the answer.

10 MR. MEALOR: Agreed.

11 MR. LANTIS: Thanks.

12 BY MR. JOHNSON:

13 Q I'm looking at paragraph 19 now, but more -- maybe
14 asking it in a more specific way. Can you give me a
15 range of the dollar amounts of the budgets that you
16 prepared for -- well, maybe I should ask this first:
17 Were the budgets for a cycle, or for some time period?

18 A The budget is for a fiscal year, starting in
19 October.

20 Q So, can you give me a range of the amount of the
21 budgets that TVA gave and were approved for the tritium
22 program for, say, cycle 14?

23 A The total budget? Are you asking for the total
24 budget? Because the majority of the budget is for extra
25 uranium-235.

1 Q Yeah. Well, you can -- why don't you just give me
2 the total budget.

3 A So the total budget is probably in the
4 neighborhood of \$150 million a year.

5 Q Okay. And if you took out the uranium that you
6 just spoke of, what are we talking about?

7 A You're probably talking -- once again, it depends
8 on what we're doing. We have different projects that we
9 implement, and we're still trying to raise tritium
10 production. But you're probably looking at between 40
11 and \$90 million a year.

12 Q And that would be -- that would've been true for
13 cycle 14?

14 A That would've been true for cycle 14.

15 Now, I'm just -- and let me say, I'm just shooting
16 from the hip here. I would -- I could go back and could
17 find the exact figures, but, you know, this is just a
18 rough estimate from my knowledge.

19 Q And do you know approximately how much of that
20 would be for personnel involved, including Mr. Goforth
21 and all augmented TVA workers in the program and the --
22 I'm sorry -- yeah, the augmented workers who may've come
23 from Day & Zimmermann and the TVA workers in the program?

24 A It would've been a couple million dollars.

25 MR. LANTIS: Objection to the form.

1 Q Okay. Let me lay a little better foundation for
2 it then. Working in the program as craft and foremen and
3 general foremen and Mr. -- on up to Mr. Goforth, were
4 some of workers DZ TVA augmentees?

5 A That is correct. Some of the workers were
6 supplied by DZ and were in an augmented status to the
7 program.

8 Q But they were short-term workers just for that
9 cycle, in the budget?

10 A They were short-term workers just for the
11 consolidation and shipping campaigns.

12 Q And then some of those workers, general foremen,
13 foremen, superintendents, could've been from the TVA
14 maintenance department that we described earlier on the
15 organizational chart?

16 MR. MEALOR: Objection. Form.

17 A That's correct.

18 Q So in your previous answer, in the range of -- and
19 correct me if I'm saying it wrong, I think it was 2 to 4
20 million, or something like that, would that include all
21 the workers as you've just described them when I broke it
22 down for you?

23 A Yes, that's correct.

24 Q And what number again did you put on that? I'm
25 not sure I said it right.

1 A Approximately \$2 million.

2 Q Now, getting away from the complaint and back to
3 discussing Mr. Goforth's job. Was he essentially the
4 front line senior manager; that is, the guy on the ground
5 who was supervising the consolidation programs in
6 tritium? I know you've testified you had an office at
7 corporate, you're involved at that level. But was he
8 your guy on the ground for cycle 14 who was running
9 things there at the plant on the ground?

10 MR. MEALOR: Objection. Form.

11 A He was. He was the task manager that oversaw all
12 the craft and the actual work going on.

13 Q And as I understand it from Mr. Goforth, he was
14 kind of the first point of contact for the tritium
15 sustainment group? And first let me lay a little
16 foundation for that. What's the tritium sustainment
17 group?

18 A It -- I do recognize that term, but that's really
19 a term that overarches into -- it's a term that the
20 Department of Energy uses. TVA is a part of the tritium
21 sustainment group, as well as Savannah River and PNNL.

22 So, the point of contact between TVA and the
23 tritium sustainment group would either be myself, the
24 senior program manager, or actually on paper it would be
25 my boss, the nuclear fuels oversight manager.

1 Q Okay. So would it be fair to say the tritium
2 sustainment group was the collection of agencies --
3 United States agencies and sites that were involved in
4 the harvesting of tritium and then the uses it was put
5 to?

6 MR. MEALOR: Objection. Form.

7 A So -- yeah. The tritium sustainment group was a
8 collection of all the stakeholders in the production of
9 tritium.

10 Q And so that -- I think you've already testified
11 that would include the Department of Energy?

12 A That would include the Department of Energy. It's
13 the Department of Energy's group. Everybody else is a
14 stakeholder in that group.

15 Q And so this was the Department of Energy's dollars
16 that were funding this entire program via budget
17 proposals that were submitted by TVA to it?

18 A That is correct.

19 MR. MEALOR: Objection. Form.

20 Q So Mr. Goforth's salary was paid through some sort
21 of flowthrough to -- by DOE money?

22 MR. LANTIS: Objection to form.

23 A So, yes. TVA is reimbursed monthly for what we
24 have to spend for tritium production. So, we'll
25 essentially give the Department of Energy a monthly

1 invoice, this is what we spent, and they reimburse that
2 to us.

3 Q So the position we described earlier that you saw
4 the contract for, task manager, that would be on those
5 monthly invoices to make TVA at least whole with -- and
6 DZ at least whole with respect to paying Mr. Goforth?

7 MR. LANTIS: Objection to form.

8 MR. MEALOR: Objection. Form.

9 A Yes.

10 Q How did Mr. Goforth perform in his new role when
11 he was augmented to TVA, as you've testified, as the task
12 manager for the program?

13 MR. MEALOR: Objection. Form.

14 A So, he performed very well.

15 Q Did you ever have any occasion to administer any
16 discipline to him for any reason?

17 A No.

18 Q How frequently when he was serving in this
19 position would you talk to him or have contact with him
20 in the course of, say, a week?

21 A It depends what period we're talking about. If
22 it -- outside of the scope of consolidating, harvesting
23 and shipping of the TPBARs, I would say a couple of times
24 a week.

25 Q Okay. And how about when you were doing the --

1 MR. MEALOR: Objection. Form.

2 Q -- actions that you just mentioned, what was the
3 level of contact?

4 A Daily to hourly.

5 MR. MEALOR: Objection. Form.

6 Q And that occurred up until the time that he was
7 terminated?

8 MR. MEALOR: Objection. Form.

9 A That's correct.

10 Q And in your experience with him during that time
11 period, was he professionally competent?

12 MR. MEALOR: Objection. Form.

13 A Yes, he was.

14 Q Was he reliable?

15 A Yes, he was.

16 MR. MEALOR: Objection.

17 Q Was he trustworthy?

18 A Yes, he was.

19 MR. MEALOR: Objection.

20 Q How was his work ethic?

21 A His work ethic was excellent.

22 MR. MEALOR: Objection.

23 Q Did he perform successfully in the assignments
24 that you gave him?

25 A Yes, he did.

1 MR. MEALOR: Objection.

2 Q From your daily and then your sometimes
3 biweekly -- roughly biweekly contacts with him over this
4 entire time period, do you feel like you have a good idea
5 of his professional reputation for honesty?

6 A I do.

7 MR. MEALOR: Objection.

8 Q What was his professional reputation for honesty
9 there in the Watts Bar community?

10 A He was totally honest.

11 MR. MEALOR: Objection.

12 Q How were his relationship with his craft
13 subordinates, like the foremen and the craft under the
14 foremen?

15 A So, he was overseeing the foremen. So, he was,
16 you know -- I think, you know, he had a good -- he had
17 good communications with the foremen.

18 Would you -- please restate the question.

19 Q I'll withdraw the question. It's really not that
20 significant. I can understand how it would be confusing.

21 With regard to the tritium sustainment group,
22 before we leave that topic entirely, I know that you
23 talked about who was organizationally the primary contact
24 with the tritium sustainment group, but what degree of
25 contact as the program task manager would Mr. Goforth

1 have had with the sustainment group?

2 MR. MEALOR: Objection.

3 A He -- different -- he would have direct contact
4 with them in different stages of the program. We would
5 have anywhere from monthly to weekly meetings with the
6 Department of Energy, phone conferences, to ensure that
7 everything was on track and that everything was going
8 along as it should and we didn't need any help and they
9 didn't need any help.

10 So, it depends, you know. It could go anywhere
11 in the cycle from four weeks, to two weeks, to -- you're
12 getting close to doing a consolidation -- weekly. And in
13 the midst of consolidation it could be two or three times
14 a week where he was in direct contact with the DOE,
15 tritium sustainment program.

16 Q Thank you.

17 Okay. Let's turn back to the complaint for a
18 moment. And go to page 6 and look at number 38 so we can
19 talk a little bit about health and safety risks of the
20 program.

21 A Okay.

22 Q And I'll try to make this fast. I can represent
23 to you -- and I think counsel would agree, TVA counsel,
24 that paragraphs 38 to 48 are agreed by the parties. They
25 were alleged in the suit and admitted by TVA.

1 So what I'd like you to do, rather than go through
2 each of those, is just look at 38 through 48, and tell me
3 if those all, based on your experience with the program,
4 appear to be accurate statements. And if they're not,
5 when you see something that's not, just let us know?

6 MR. MEALOR: Objection.

7 A (Reviewing document.) One more time. How far do
8 you want me to go on this? Through --

9 Q Through the end of paragraph 48.

10 A Through the end of paragraph 48. Okay. The only
11 thing I would say -- I would agree with everything -- I
12 might've worded it different, but I would agree with
13 everything except on 45: "The harvesting, containing,
14 storing and shipping of the TPBARs at Watts Bar begins
15 with a new program 'cycle' approximately every 18 months.
16 The cycles have been numbered consecutively since the
17 startup of the program."

18 The cycles are numbered by the core refueling
19 cycle. So the first cycle that ever had any TPBARs was
20 unit 1 cycle 8. And then I believe cycle 10 was when
21 they first started actual large-scale production. So, in
22 other words, when we talk about cycle 5, there is no
23 cycle 5 consolidation. There weren't any TPBARs in that
24 fuel cycle.

25 Q Thank you for that correction .

1 Okay. Now I want to spend a little time on
2 paragraph 49. And I'm going to read it, and follow along
3 with me if you will, please, sir.

4 "For example, were a TPBAR accidentally dropped,
5 it could crack, allowing high pressure tritium gas to
6 escape into the water and atmosphere. More dangerous to
7 public health and safety, the cracked TPBAR, or pieces of
8 it, could be propelled by escaping high pressure tritium
9 gas into other TPBARs, causing them to crack or break.
10 Any cracked or broken TPBAR could fly out of the water at
11 high speed like shrapnel. The TPBARs, or fragments of
12 them, due to their irradiation in the reactor, are
13 radioactive at such a high level that human exposure to
14 them in the air of the facility would be extremely
15 hazardous to health and safety. In short, a damaged
16 TPBAR could cause serious bodily injury or death."

17 So, let me ask the question to you. Is a
18 hypothetical scenario like as was just described there,
19 is that something that is described to workers in the
20 program in order to impress them with the gravity of the
21 nature of the work?

22 MR. MEALOR: Objection. Form.

23 A So, I would've worded this differently. But in
24 general, the answer would be yes, especially the, you
25 know -- I would say especially the last two sentences of

1 that paragraph.

2 So, we do impress on them that, you know, that the
3 TPBARs are highly radioactive, and by the time we
4 consolidate and ship they're pressurized, and that we
5 really don't know what would happen if a TPBAR had a
6 major breach. There's a lot of speculation on that, what
7 would happen. But, you know, it, it definitely could
8 cause some problems to the health and safety of the
9 workers.

10 Q And how thick is the skin -- I think -- I can't
11 remember the word you used to describe it, the skin on
12 these TPBARs that contains them?

13 A It's, it's a cladding. And it's -- the exact
14 thickness is export control, falls under the export
15 control laws of the Department of Commerce. So I don't
16 really want to give you an answer on that.

17 But it is possible -- as I said before, if these
18 are dropped more than, I believe it's 18 inches, 18
19 inches to two feet, you could have a major breach on a
20 TPBAR, because they have never been tested like that.
21 What you will have is you will go past the limit of
22 plastic deformation if it's dropped more than 18 inches.
23 Whether that means it'll breach or not, don't know. So
24 you just -- the best assumption is that it would breach.

25 MR. MEALOR: Objection to form on that

1 question.

2 Q If it would breach, is the scenario described in
3 paragraph 49 one of the possible scenarios that could
4 occur in the event of a breach?

5 MR. MEALOR: Objection. Form.

6 A It is one of the possible scenarios that has been
7 discussed on what would happen if there was a breach.

8 Q And has this been discussed with the foremen, the
9 craft -- well, let me ask it this way: Was this
10 discussed with Mr. Goforth?

11 A Yes, it was.

12 MR. MEALOR: Objection to form.

13 Q Do you know whether it was then discussed with
14 foremen and craft as well?

15 A I don't, I don't remember discussing it myself or
16 when it was discussed, but I'm totally certain that
17 during the -- you know, we have training with them and
18 impress on them, you know, how important these things are
19 handled right and by procedure. So...

20 MR. MEALOR: Objection to form of the
21 question.

22 Q I'm going to show you a photograph. And I
23 apologize for the quality of this copy.

24 MR. JOHNSON: You may want to look at it,
25 Paul, in your --

1 MR. MEALOR: Yes.

2 THE REPORTER: Thank you.

3 Sorry, sir.

4 Q During this time when he went over to the -- to
5 perform outage activities, did he still perform tritium
6 work in which you communicated with him and he
7 communicated with the sustainment group?

8 A Yes, but very insignificantly. I mean, he was
9 mainly working for the plant. We would discuss -- I
10 might call him up and ask him about, you know, have you
11 got the -- you know, has the work order been approved yet
12 to put the consolidation fixture together, you know,
13 something like that. But he was not on the -- he was not
14 being paid by DOE funds then.

15 MR. MEALOR: Objection. Form of the
16 question.

17 Q So, you considered this, I take it then, to be a
18 temporary assignment just for the outage and then he
19 would be back to his full-time tritium job?

20 A That's correct.

21 MR. MEALOR: Objection.

22 Q And there was communication between you and he
23 during the outage regarding his tritium duties?

24 A There was. Not much, but there was communication.
25 And I couldn't tell you exactly what. But with the

1 tritium campaign coming up at the end of that outage,
2 there would've been some questions or some communication
3 going on.

4 Q Do you recall him communicating with the tritium
5 sustainment group by emails or otherwise during that
6 outage time period?

7 A I would say -- I don't recall it, but I'd say it's
8 very possible.

9 MR. MEALOR: Objection.

10 Q Are outage activities, for want of a better word,
11 pretty much an all-hands-on-deck type of activity at
12 Watts Bar?

13 MR. MEALOR: Objection.

14 A At Watts Bar and any nuclear plant.

15 Q And so I, I've heard things from Mr. Goforth, like
16 even secretaries were used to be fire control watches, to
17 stand fire control watches, and things like that. Is
18 that correct?

19 A That's correct. I mean, the -- let me put it this
20 way, people who don't directly support those type of
21 maintenance or activities get pulled out of their regular
22 job to do that. It's pretty common.

23 MR. MEALOR: Object to form of the prior
24 question.

25 Q I want to get specifically now to cycle 14. So,

1 when, approximately, did the actual, as you call it,
2 consolidation of the tritium begin in cycle 14,
3 approximately?

4 A It was going to begin -- it began directly after
5 the end of cycle 14 refueling outage.

6 Q And was that --

7 A At the startup of cycle 15.

8 Q Okay. And you're talking about the refueling at
9 Watts Bar Unit 1?

10 A Watts Bar Unit 1. Correct.

11 Q So that would've been approximately spring, summer
12 of 2017?

13 A Let me think. Oh, I'm sorry. You're talking
14 cycle 14?

15 Q Yes, sir.

16 A Yes. Spring, summer of 2017, correct.

17 Q During cycle 14, was there a change made in the
18 craft personnel and foremen who were going to be working
19 in the program from the way it had been in prior cycles?

20 A Yes. The maintenance department -- prior to that,
21 the consolidation and shipping was done by the
22 maintenance support department who used DZ employees.
23 The maintenance department on cycle 14 wanted to do it, I
24 guess the best term would be "in-house," using people
25 from the maintenance shop, not from the maintenance

1 services department but actually from the mechanical
2 maintenance shop.

3 Q And who was responsible for making that decision
4 that the cycle 14 would be handled by the TVA maintenance
5 group instead of the DZ workers?

6 A That was the maintenance -- director of
7 maintenance, Jesse James, and -- primarily, and then my
8 boss, Mike Keck, also.

9 Q Okay. Did that have to be approved, or do you
10 know if it was shown in any way to Paul Simmons?

11 A Yes, I --

12 MR. MEALOR: Object to form.

13 A It was.

14 Q How --

15 A Paul Simmons --

16 Q How do you know that?

17 A You know, I don't know exactly when, where and
18 what was said, but I know that Paul Simmons had voiced
19 some concerns to maintenance that they really thought
20 that they had the personnel to do that and keep up with
21 the plant maintenance, normal plant maintenance.

22 Q And what was your view on that --

23 MR. BERNIER: I think he was objecting to
24 both those questions.

25 Q What was your view on that?

1 A My view on it was I didn't want to -- and this is
2 just a personal thing. I mean, it's pretty subjective.
3 But I didn't want to go through the maintenance -- the
4 in-house mechanical maintenance shop. I wanted to
5 keep -- we got a system that worked and I wanted to keep
6 that system working the way we had been doing it.

7 Q So the workers --

8 MR. MEALOR: Objection.

9 Q The workers --

10 MR. MEALOR: I was objecting to the prior
11 question. All right. I'm done.

12 Q So the workers from DZ were experienced workers
13 who had handled prior consolidation programs?

14 A That's correct.

15 Q And the workers from --

16 MR. MEALOR: Objection.

17 Q -- TVA maintenance were inexperienced in doing any
18 of this tritium program activities?

19 A That's correct.

20 MR. MEALOR: Objection.

21 Q Did they have zero experience?

22 A I'm thinking. And that would be correct. They
23 had zero experience.

24 Q And you expressed that to Mr. Simmons and you
25 think he maybe shared that?

1 A I don't --

2 MR. MEALOR: Objection.

3 A -- think I expressed that to him directly. I
4 expressed it to Jesse James, the director of maintenance,
5 and I expressed that to my boss. But I do know that Paul
6 Simmons was aware of that and that he had a similar
7 concern. And also he was concerned that there wouldn't
8 be enough resources in the shop if they cut shop people
9 loose to go do this. It's quite -- you know, it's a
10 fairly long evolution.

11 Q What do you think were the motivations of James
12 wanting to do this?

13 MR. MEALOR: Objection.

14 A It's my opinion --

15 Q Sure.

16 A This is totally my opinion. I think that what he
17 wanted to do was he wanted to supplement his budget with
18 some DOE dollars.

19 Q And would this change have resulted in a greater
20 flow of dollars to TVA and a lesser flow of dollars to
21 DZ?

22 MR. MEALOR: Objection.

23 A So, it would have resulted in a lesser flow of
24 dollars to DZ, but it wouldn't make any difference to
25 TVA.

1 Q And describe for me how that is.

2 A TVA pays DZ for their services. So, whether we're
3 paying for a boilermaker from the Watts Bar maintenance
4 shop or whether we're paying for a boilermaker from DZ,
5 from the hall, the money is still getting paid by DOE
6 through TVA.

7 TVA does not make a profit. We do this under --
8 maybe I'm running a little too much, but we do this under
9 the Economy Act. We cannot make a profit and we cannot
10 make a loss. We can just get reimbursed for the money
11 that was spent.

12 Q But would it be true that TVA would get DOE money
13 for the hours that TVA maintenance department workers put
14 on the project?

15 MR. MEALOR: Objection.

16 A Yes.

17 Q And that number would've been a higher number of
18 reimbursement for whatever they were being paid than it
19 was before this change was made from DZ workers?

20 A That's --

21 MR. MEALOR: Objection.

22 A It would've been for the budget for the
23 maintenance department. It would have -- the money that
24 maintenance -- mechanical maintenance spent that year
25 would have been augmented by that DOE money.

1 For instance, if they sent ten people and now
2 for -- say for four months you don't have to pay for four
3 of them, even though those people are getting paid, then
4 it's going to make your budget look better.

5 Q Got it. You just answered my next question. So,
6 thank you.

7 Did Mr. Goforth express any views to you about the
8 change from the DZ workers to the TVA workers?

9 A You know, I can't remember specifically, but I
10 know that we were all anxious, because the DZ workers
11 were experienced and the TVA workers weren't. And
12 Mr. Goforth did have some input on what DZ workers we
13 were going to get, make sure they were experienced. And
14 he had no -- we had no input on the workers we were going
15 to get from the maintenance shop.

16 MR. MEALOR: Object to that prior question.

17 Q Did it -- so, was part of the reservations that
18 you had and that Mr. Goforth had about using the TVA
19 maintenance workers under Jesse James, that being
20 inexperienced it increased some of the risk involved in
21 these operations that we've talked about earlier with
22 highly irradiated material?

23 MR. MEALOR: Objection. Form.

24 A That's true.

25 Q So how did it turn out in cycle 14, in June of

1 2017, by using these inexperienced workers?

2 A It -- we had a lot of problems. More problems
3 than were typical. And we always do a lessons learned in
4 the end. So, we had cataloged all the problems we had
5 with the maintenance shop.

6 Q Okay. I'm going to ask you to take -- open up
7 your Document 8. And let me know when you've got it.

8 A I got it.

9 Q Okay. Can you identify this document?

10 A So that was an assessment we did on cycle 14.

11 Q So that's what you just spoke of in your
12 immediately prior testimony?

13 A That's correct. It's a little more comprehensive
14 than what we normally do. We normally just list some
15 lessons learned and some things that we need to change
16 and some things that went right that we don't ever want
17 to change again. But this one, because of the amount of
18 problems we had, we went ahead and did an assessment, not
19 only for us, in the program, but for TVA and also for the
20 Department of Energy. This was shared with the
21 Department of Energy, as is all our lessons learned.

22 MR. JOHNSON: Let's mark this as the next
23 exhibit, please. And what exhibit will it be?

24 THE REPORTER: Number 5.

25 (Exhibit 5 was marked for identification.)

1 BY MR. JOHNSON:

2 Q And I notice on page one of Exhibit 5 that the
3 author of it is Robert Goforth; is that correct?

4 A On this one. On the one -- the final one, it
5 was -- we were both co-authors of this.

6 Q Okay. Was the final one essentially what we were
7 looking at -- what we are looking at here?

8 A I would have to -- essentially, I would have to
9 compare them page to page. Or if there's any question on
10 anything, I could look. But I would say essentially.

11 Q But in --

12 MR. MEALOR: Objection.

13 Q -- any event, at least this one, on October the
14 17th, was drafted -- or Mr. Goforth is shown as the
15 author of?

16 A Correct.

17 MR. MEALOR: Objection.

18 Q And so to -- and I take it that you asked
19 Mr. Goforth to work on this?

20 A He was assigned to work on this. That's correct.

21 Q This was, I think you've testified, above and
22 beyond his -- what he would normally do to perform his
23 duties, because of the extra problems that you had
24 experienced?

25 MR. MEALOR: Objection.

1 A That's correct.

2 Q To try to shorten this a little bit, the point of
3 this assessment was to identify, specifically, gaps in
4 the performance of cycle 14; is that correct?

5 A That's correct. To document those gaps --

6 Q And --

7 MR. MEALOR: Object --

8 Q -- there were 13 --

9 THE REPORTER: Wait a minute. Wait a minute.
10 Sir, you were still speaking, and then
11 Mr. Mealor objected, and I didn't hear what you said at
12 the end.

13 You said, "That's correct. To document those
14 gaps."

15 Q Anything after that?

16 A I'm sorry, I'm having a hard time hearing.

17 Q Let me just re-ask the question.

18 A Okay.

19 Q The format of this assessment was to identify gaps
20 in the performance of cycle 14?

21 A It was to identify gaps, that's correct. To
22 expound on that a little bit, so that the gaps can be
23 closed and corrective actions taken to close those gaps.
24 So the real purpose of it was so that you could close
25 those gaps.

1 Q And --

2 MR. MEALOR: And I was objecting to that.

3 Q In your view at the time of the assessment, would
4 closing these gaps make the plant a safer operation?

5 A So I, I -- yes. However, I don't want to imply
6 that the plant was operating in an unsafe manner either.

7 Q Well, we're talking relatives here. That was not
8 the purpose of the question, to try to say that it was
9 being operated in an unsafe manner.

10 I just -- so the word was "safer." Was the
11 purpose to make sure that in cycle 15 things could be
12 safer than they turned out to be in 14?

13 A Yes. That was part of the purpose. The other
14 part of the purpose was also so that we could better
15 schedule performance and, you know, and add efficiency to
16 the process. That's --

17 MR. MEALOR: Objection to the question.

18 A -- (indiscernible) was another part of it.

19 Q Well, I'm going to kind of --

20 THE REPORTER: Wait a minute. Wait a minute.

21 Sir, Mr. Mealor was objecting and I didn't
22 hear what you said was "another part of it." I missed it
23 in between.

24 A Okay. So -- and I'm really having a hard time.
25 Sorry.

1 A Gap 11 was performance by TVA maintenance.

2 Gap 12 was performance by TVA maintenance. Once
3 again, that was more of a management type thing.

4 Q Yeah. And it says there that this gap 12 "was
5 discussed with the maintenance manager who will inform
6 tritium program management of any actions." It says
7 that, doesn't it, on page 10, after gap 12?

8 A I think that's all the gaps. Thirteen is --
9 that's more management -- that's maintenance management.

10 Q So, I've counted eight of the gaps -- eight of the
11 13 gaps as being either TVA maintenance workers or TVA
12 maintenance management, or some combination of the two.

13 A That's correct.

14 Q And TVA management, again, you've testified would
15 be Jesse James?

16 A It would be Jesse James, with the exception of the
17 radiation protection.

18 Q Okay.

19 A And -- yeah. Yeah.

20 Q And I take it that would've been someone in
21 another department that involved radiation protection?

22 A That's correct.

23 Q I want to focus on gap 9. And it may take me a
24 minute here. I need to boot up a video to show everyone.

25 MR. JOHNSON: This is not in your list of

1 exhibits because we're all going to be looking at this
2 simultaneously during the testimony, and it'll display up
3 on the screen. Let me this up. Just bear with me for a
4 minute.

5 BY MR. JOHNSON:

6 Q In the meantime, why don't you just read for the
7 record what gap 9 states.

8 A Gap 9. "On 22 June '17, in the latter part of the
9 shift, the same TVA boilermaker mentioned above bent a
10 thimble plug on a TPBAR assembly while placing in it the
11 consolidation fixture. The boilermaker stated the crane
12 fast button was inadvertently pushed. This caused a
13 TPBAR assembly to catch on the tombstone part of the
14 pitchfork, bending a thimble plug attached to the hub to
15 45 degree angle.

16 "Action: The severity of the incident was enough
17 for the task manager to raise a concern to the first line
18 supervisor to have him removed from operating the bridge
19 crane or harvesting TPBARs from a hub. TVA maintenance
20 manager shut the tritium project down until there was
21 confidence in the crew being able to be successful. Shut
22 down from 23 June '17 to 28 June '17. Refer to CR
23 1310118.

24 "Note: The action was captured on video recording.

25 "Clarification: A TPBAR baseplate/hub has

1 positions for 24 12-footlong TPBARs. Depends on where
2 the baseplate was in the core ... how many TPBARs are
3 attached to a baseplate. Example: If a hub has 12
4 TPBARs attached, it will have 12 eight-inch thimble plugs
5 attached as well to fill up an empty position."

6 Q So that's consistent with your earlier testimony
7 about -- when you looked at the picture, about which were
8 the TPBARs and which were the thimble plugs in --

9 A That's correct.

10 Q -- the picture?

11 A And that is correct.

12 Q All right. Well, let me show you the video that
13 is referred to in the note there, that this was captured.
14 And this lasts only about a minute and a half, so it's
15 not going to take up a lot of time.

16 (Off the record for technical adjustments.)

17 BY MR. JOHNSON:

18 Q All right. Mr. McGuire, we're going to start this
19 video. And maybe just looking at that still shot, can
20 you describe for us what we're looking at?

21 (Video plays.)

22 A I believe we're looking at a TPBAR assembly,
23 coming through the rear gate door.

24 Q What are those -- are those long rod-looking
25 things hanging down there, are those TPBARs?

1 A I believe they are.

2 Q Okay. Well, let's start it up and then maybe it
3 will become more certain.

4 (Video plays.)

5 A So yeah, that's, that's a TPBAR assembly coming
6 from the spent fuel pool into the cask loading area.

7 Q I've stopped it for a minute. So to be clear,
8 this is the stage where you've pulled these TPBARs out of
9 the reactor core and they're in the assembly that you
10 looked at the still picture of earlier, and they're now
11 ready for the next step, which is what?

12 A Which would be placing it in the consolidation
13 fixture and de-torquing the TPBARs from the baseplates.

14 Q All right. Let's see what happens. (Video plays.)
15 Are those the TPBARs that are moving around there?

16 A That's correct. Like I said, there's nothing
17 supporting them on the bottom, so they're going to move.

18 Q Okay. So now I've stopped it again. What are we
19 looking at there?

20 A So you're looking at the -- at a support fork on
21 the consolidation fixture. That's what the TPBAR
22 assembly will rest on while it's being de-torqued.

23 Q Okay. And is -- I understand that that's called a
24 pitchfork; is that right?

25 A That's -- yeah, that's called a pitchfork.

1 THE REPORTER: Is there a tape counter
2 number, sir?

3 MR. JOHNSON: Oh. That is 30 seconds.

4 Q Okay. Resuming. (Video plays.)

5 Okay. What did we just see happen there?

6 A We saw one of the thimble plugs get hung up on
7 what the maintenance people call the tombstone, that
8 square piece of metal. And then they lowered the TPBAR
9 assembly, and when they did, because the thimble plug was
10 hung up, it bent.

11 Q And was that lowering of the assembly what was
12 described in gap 12?

13 A Let me go back and read that.

14 Q Gap 9.

15 A Give me a second to go back.

16 Q Sure.

17 A (Reviewing document.) Yes.

18 MR. MEALOR: Object. Form.

19 Q So the fast button was inadvertently pushed. So
20 was the descent of the assembly that bent the thimble
21 plug, was that -- how would you describe that? A fall?
22 A controlled fall? I mean, it -- first of all, clearly
23 something was wrong. I mean, what explains --

24 MR. MEALOR: Objection to form.

25 MR. LANTIS: Yeah. Objection --

1 A TPBAR assembly --

2 Q The question was not clear. It was multiple. Let
3 me ask it again.

4 Describe for me what occurred, in the video at
5 this point, with relation to the identified gap?

6 A So, that was the thimble plug hanging up on the
7 tombstone, and then the weight of the TPBAR assembly and
8 the weight of the tool bending the thimble plug when it
9 was lowered.

10 Q I see. And was it lowered in a proper fashion?

11 A Let -- well, obviously not.

12 Q Well, in the gap it says the boilermaker stated
13 the crane fast button --

14 A Let me add this, that we have changed our process
15 going forward because of this. So, it wasn't lowered in
16 a proper fashion. We had never bent one before. This
17 has never happened before. But it was, you know, it was
18 wrong. We've taken action since then.

19 When we, when we -- an action we've taken is when
20 we go to place it in -- the TPBAR assembly in the
21 pitchfork, that we bring it in and we stop before we get
22 to that tombstone. We lower it until the thimble plugs
23 are below the level of that tombstone.

24 MR. MEALOR: Object to the question.

25 Q So in the gap, it says that the boilermaker stated

1 the crane fast button was inadvertently pushed. So that
2 means the assembly went down and bent the thimble plug at
3 a faster rate than the assembly should've been going
4 down?

5 A It went down -- that's correct.

6 Q Okay. So --

7 A It went down faster than it can be controlled.

8 MR. MEALOR: Objection. Form.

9 Q Now, those thimble plugs you testified earlier are
10 used when there's not a TPBAR in a given location. And
11 so what -- if there were a -- would it have been possible
12 that a TPBAR could've been in that location?

13 MR. MEALOR: Objection.

14 A It's -- sure, it's possible. But if it was a
15 TPBAR, it wouldn't have been -- it wouldn't have been
16 above the height of that tombstone.

17 THE REPORTER: Excuse me, sir. Could we get
18 the counter on that?

19 MR. JOHNSON: Yes. It's a minute 20.

20 (Video plays.)

21 BY MR. JOHNSON:

22 Q So I've continued the video. (Video plays.) Let
23 me stop that there.

24 In the video are you able to tell whether the
25 TPBAR has come into contact with the pitchfork?

1 A No, I wasn't. But if the TPBAR did come in
2 contact with the pitchfork, that's okay. That's --

3 Q That's expected. Sorry. I don't mean to
4 interrupt you. Go ahead.

5 A If a TPBAR came in contact with the pitchfork,
6 that's still within design of the consolidation fixture
7 and the TPBAR. So that's...

8 Q So what does appear to be happening there, at this
9 point?

10 A Here's -- at this point it looks like they're just
11 trying to figure out if it's bent or, you know -- I don't
12 know. I really don't know what's happening.

13 THE REPORTER: Time?

14 MR. JOHNSON: 2:20.

15 (Video plays.)

16 BY MR. JOHNSON:

17 Q All right. That's the end of that one. Anything
18 else of note in the remainder of it?

19 A No.

20 Q Okay. I'm going to show you another one, which is
21 even shorter.

22 Okay. It's already started. (Video plays.)

23 So, I'm going to stop it at 09 seconds. And can
24 you identify whether that's the same --

25 A It's the same TPBAR assembly.

1 Q Okay. I've started it again. (Video plays.)
2 Can you identify what's happening at this point?
3 I stopped it at 23.

4 A Yeah. It appears that they're using a tool we
5 call the shepherd's hook to straighten -- see if they can
6 straighten the thimble plug.

7 Q I've resumed it. (Video plays.)
8 All right. So, I've stopped it at 47. What did
9 you observe since the last stop?

10 A So, I observed that they attempted to straighten
11 the thimble plug, but it put a lateral force on the TPBAR
12 assembly, moving it sideways and possibly even hitting
13 the wall of the spent fuel core. Can't tell if it hit
14 the wall or not, but it definitely put a lateral force on
15 it and got the TPBAR assembly out of the perpendicular
16 position.

17 Q What risk, if any, is being associated with this
18 maneuver?

19 A So, the risk is these TPBAR assemblies aren't
20 designed, in the tool, to have lateral forces put on
21 them. And the TPBAR connections to the baseplates aren't
22 designed for any type of lateral forces. So they were
23 pretty much outside of design spec when they were doing
24 that.

25 Q So was there elevated risk of an accident with the

1 TPBARs occurring as a result of this attempted maneuver?

2 MR. MEALOR: Objection.

3 A Yes. Maybe a better way to put it was there's an
4 unbounded risk.

5 Q And can you describe what you mean by "unbounded"?

6 A That it was outside of -- it was outside of the
7 kind of tool, the TPBAR assembly, to put those type of
8 forces on it and then push the TPBAR up through the -- or
9 did hit the side of the spent fuel core.

10 Q Let me ask you a little bit about these camera
11 videos we've been watching. Is that a requirement of
12 DOE, that all of the harvesting be -- that's done
13 underwater be filmed?

14 MR. MEALOR: Objection.

15 A The only requirement that the DOE has is that
16 actually dropping the TPBAR into the canister is on film
17 that can be verified. But it's our requirement that
18 everything we do be videoed. Two reasons. One, so we
19 have a record and, two, so we can see what's going on
20 while we're doing it.

21 Q Is there ever a time when TPBARs are in motion
22 under, as you described, as TVA's procedures, when it is
23 acceptable to turn the cameras off?

24 MR. MEALOR: Objection.

25 A No.

1 Q Describe for me what attempts may have been made
2 to turn the cameras off, if any, during this maneuver
3 with the tool or wrench that -- or the shepherd's hook, I
4 think you called it?

5 A Would you say that again, please?

6 Q Describe, if any, for me any attempts that were
7 made to turn the cameras off during this maneuver with
8 the shepherd's hook?

9 A So, I do not know of -- I have no personal
10 knowledge of any attempts to turn the cameras off.
11 Everything I heard was hearsay, I guess. And I do know
12 that the employees -- the TVA employee concerns
13 investigated something about requesting turning the
14 cameras off, you know. But I -- I can give you what I
15 was told. You know, once again, hearsay. But I have
16 no -- don't have any knowledge of that, but I do know
17 employee concerns does -- or did. But I was told that
18 the electrician was asked by the foreman to turn off the
19 camera so that what we just saw couldn't be seen, I
20 guess.

21 Q And so can you tell me who the source of this
22 information was?

23 A Robert Goforth told me, and I believe Greg
24 Whitehorn might've told me about that. And employee
25 concerns.

1 Q And they --

2 A They were investigating that.

3 Q And did employee concerns say anything about who
4 raised the concern?

5 A No. No. That's all confidential.

6 Q But in fact, the cameraman involved did not turn
7 off the camera, because we've got the video, correct?

8 A Correct.

9 MR. MEALOR: Objection.

10 Q Do you know who the cameraman was that did not
11 turn off the video?

12 A Steve Romines.

13 THE REPORTER: I'm sorry. Last name?

14 MR. JOHNSON: It's Steve Romines.

15 R-o-m-i-n-e-s.

16 THE REPORTER: Thank you, sir.

17 BY MR. JOHNSON:

18 Q Okay. I'm going to continue it.

19 THE REPORTER: Time?

20 MR. JOHNSON: One minute. We've only got 50
21 seconds left or so.

22 (Video plays.)

23 BY MR. JOHNSON:

24 Q Okay. That's the end of the video. Anything to
25 note between the last time we stopped and the end, that

1 you saw in the picture?

2 A No. I didn't note anything.

3 Q So --

4 MR. MEALOR: Objection to form.

5 Q So you were referring to the fact that the design
6 of the assembly was not designed to handle lateral
7 movements like what occurred with the shepherd's hook,
8 correct?

9 A I would say that's correct. And I hate to go off
10 track.

11 Q Well, let me ask you some particulars about that,
12 and it may get where you want to go. But if not, you
13 know, complete your answer whenever you wish.

14 If you look at the top of the assembly, there's
15 some sort of knobs coming up above each TPBAR and
16 thimble. Are you seeing what I'm referring to?

17 A It's, it's the shank.

18 Q Is the shank what's used to secure the TPBARs to
19 the assembly? Somehow it screws it in or bolts it in?

20 A The shank is where you put the -- I'm trying to
21 think of the right term for it -- the torque wrench or
22 the -- on to unscrew the TPBAR from the baseplate. So
23 the shank -- our de-torque tool has a fitting on it that
24 fits on that shank, and then below that shank is a thread
25 pack with about nine threads on it. And the torque

1 gotten on-site, but I couldn't be a hundred percent
2 certain of that.

3 But I was, I was on-site. Had been doing
4 something while that was going on. That had nothing to
5 do with the consolidation. It was a different part of
6 the program.

7 Q How did you find out that this had occurred or was
8 in the process of occurring?

9 A Got a call from Robert Goforth.

10 Q And what did Robert say?

11 A That basically --

12 MR. MEALOR: Objection.

13 A -- that they had bent the thimble plug and tried
14 to unbend the thimble plug, unsuccessfully. And I told
15 Robert to stop work until we get this all sorted out.

16 Q Did he mention the camera, attempt to turn the
17 camera off, during that conversation?

18 A No. I don't believe it was mentioned then.

19 Q And could you tell, from that conversation or at a
20 later time, whether Robert was on the floor where these
21 events were occurring at the time that they occurred as
22 depicted on the video?

23 MR. MEALOR: Objection. Form.

24 A I do not believe Robert was on the floor during
25 that time. The foreman was the person in charge. Robert

1 left him in charge. I believe Robert was in his office
2 attending to some other work when that happened.

3 Q Robert says that at the time of this he was on a
4 conference call with the sustainment group. Is that
5 possible? Or does that refresh your memory about that?

6 A Yeah. That's undoubtedly what happened. At this
7 time of the process we're on phone calls almost daily,
8 you know. He doesn't have to be up there the whole time,
9 I don't have to be up there the whole time, but he should
10 be up there -- or should've been up there most of the
11 time. But he could get called away for other things and
12 leave the foreman in charge. Same thing we do now with
13 the task manager.

14 Q So not --

15 A What's that?

16 Q Not unusual or unacceptable for him to have to
17 leave the floor to participate in a sustainment group
18 call?

19 A No, it's not.

20 Q So, what update, if any, did you get from Robert
21 about what was occurring, after that?

22 A I think that was basically it, you know. It's
23 this is what happened. I said, "Stop work. Let's write
24 a CR and then, you know, sort this thing out before we
25 move on."

1 Q Well, did he, or anyone else for that matter,
2 propose to you a solution for getting these TPBARs into
3 the pitchfork after the accident?

4 A So we, we talked about it. We -- and this is the
5 way it should've proceeded. I'm not going to say that
6 bending that TPBAR was a good thing, but it wasn't, you
7 know -- things happen and it was recoverable.

8 What should've happened is what we did after that,
9 is work should've stopped. We should have, and we did,
10 get on the phone with Pacific Northwest National Labs,
11 the designer of the TPBAR, and on the phone with Savannah
12 River Solutions, the people who we send the TPBARs to,
13 and talked things over, as, you know, what can we do to
14 recover from this. And then get that information, how
15 we're going to recover from it, into a work order so that
16 we have instructions on what to do.

17 And I mean it was -- and this -- one other time I
18 think we had done this, and I forget the circumstances
19 behind it. But it -- you take the TPBAR assembly and you
20 turn it 180 out and put it in that way and continue
21 harvesting the TPBARs. But you don't just do that. You
22 make sure that you talk to the designer and you talk to
23 the end user, everybody -- and also WGS, Westinghouse
24 Government Services, the manufacturer of the TPBARs, and
25 DOE. You get everybody together, come up with a

1 solution, put that solution in a procedure in the form of
2 a work order or something, and then carry it out.

3 Q So --

4 A But that's what happened. And that's what
5 should've happened before they had tried to straighten it
6 out.

7 Q Did Robert participate in that process with those
8 other stakeholders in coming up with the solution?

9 A Yes.

10 Q And who was it that executed placing the TPBARs
11 180 -- reverse 180 back into the pitchfork? Was that
12 Robert?

13 A That was Robert, yeah. A hundred percent
14 oversight on that.

15 Q And the -- was the person that was operating the
16 movement when the bent thimble occurred a TVA maintenance
17 employee?

18 A They were.

19 Q If you could go to Document 9, please, in your
20 documents. Do you recognize this document?

21 A I do.

22 Q It appears to be an email from Howard Cusick to
23 you, subject: tritium, dated October 3, 2017; is that
24 correct?

25 A That's correct.

1 Q All right. Take a look at that as we mark it the
2 next exhibit.

3 (Exhibit 6 was marked for identification.)

4 BY MR. JOHNSON:

5 Q So let's talk about who Howard Cusick is first.
6 Who's Howard Cusick?

7 A Howard Cusick was the -- he's a retired TVA
8 employee who was brought back to help out in employee
9 concerns. He had been a -- he'd worked as the employee
10 concerns person at Watts Bar; retired, then brought back
11 to augment employee concerns as a contractor.

12 Q Okay. And so in what capacity was he operating
13 when he sent you this email?

14 A As the employee concerns manager. It's like you
15 said, investigator or...

16 Q So this would've been in response to some employee
17 making -- expressing a concern to employee concerns?

18 A That's correct.

19 MR. MEALOR: Objection.

20 Q And he never identified who that employee was,
21 correct?

22 A No, he did not.

23 Q Do you know who it was?

24 A I have no direct knowledge of that. Hearsay, it
25 was Steve Romines.

1 Q The camera --

2 MR. MEALOR: Objection.

3 Q -- operator? The camera operator we discussed
4 earlier?

5 A Yes.

6 Q So as a result of your having gotten this email,
7 what actions did you take?

8 A I sent him the assessment, a copy of the
9 assessment.

10 Q And so the assessment was dated -- that we looked
11 at was dated October 17th. So that would've been a
12 couple of weeks later?

13 A That's correct. We had been working on that
14 assessment, and he knew we'd been working on it.

15 Q And he's saying in this email, is he not, that
16 he's requesting a review of Robert Goforth's assessment
17 and asking you to share it with him, correct?

18 A That's correct.

19 MR. MEALOR: Objection.

20 Q Look at Document 10, please, sir. And that
21 appears to be an email chain. And the email at the top
22 is from Howard Cusick to Ruth Fordham, correct?

23 A Yes, that's correct.

24 Q And it's dated October 5th?

25 A That's correct.

1 Q And so who is Ruth Fordham?

2 A She was the employee concerns manager at Watts Bar
3 at the time.

4 Q So would she likely have been the person that
5 engaged Cusick to investigate this?

6 MR. MEALOR: Objection.

7 A I don't know. I don't know how things operate
8 over there.

9 Q Well, that's fine. You don't have to answer. I
10 don't want you to speculate.

11 But what does -- when Cusick sends this to Ruth
12 Fordham, he's giving you the -- he's giving her the email
13 from you to Jeff McGuire. So would you just review that,
14 please, and then explain what happened?

15 A Yeah. So, I went and, as we were writing the
16 assessment, wanted to give James a chance to input on it
17 and know what was it in. So I -- and I had been in
18 contact with Howard Cusick because I knew there had been
19 problems. And also there were -- I don't -- you know, if
20 it's employee concerns it's out of my wheelhouse. But I
21 knew there were some other problems going on that he
22 might be aware of, and if he was working on those
23 problems I didn't really want to put it in the
24 assessment.

25 For instance, I'd heard -- and once again,

1 hearsay -- that some of the TVA employees were leaving
2 the floor early and were checking out of work early
3 and --

4 Q And who had you heard that from?

5 MR. LANTIS: Why don't you let him finish his
6 answer.

7 THE WITNESS: What's that?

8 Q Were you finished with your answer?

9 A I'm sorry, say that again.

10 Q Were you finished with your answer?

11 A Yeah. I, I just -- I knew I'd heard some things
12 going on. And what I wanted to do was, if he wasn't
13 investigating it I was going to have him look into it and
14 investigate it.

15 MR. MEALOR: Objection to that question --
16 prior question.

17 Q Would those other concerns you're talking about
18 have been the gaps that were identified in the
19 assessment?

20 A Some of them. The one main thing that I wanted
21 him to -- honestly, the one main thing I wanted him to
22 investigate was I'd heard that the TVA maintenance
23 employees were leaving work early but still putting down
24 the time on their time cards.

25 Q Let me just ask you a more general question,

1 following up on that. What did it appear to you to be
2 the attitude of the TVA MMG workers towards being
3 assigned to the tritium program?

4 MR. MEALOR: Objection.

5 A So, once again this is just my perception. But it
6 seemed that their attitude was that they didn't want to
7 do it, they didn't want to be part of the project, and
8 that they just were unwilling to do the job.

9 Q And does your opinion lead you to a further
10 opinion about whether that was a cause of some of the
11 problems that you experienced with cycle 14?

12 MR. MEALOR: Objection.

13 A I think, I think that it was a large part of the
14 cause.

15 Q Did you talk to Jesse James about that?

16 A I did.

17 Q What was his response?

18 A He would check -- he would look into it.

19 Q Did he ever get back to you?

20 A No. And the same thing with this email. His
21 response was that he would look into it, and -- he was
22 aware of it now and he would look into it.

23 MR. JOHNSON: Let's mark this, Document 10,
24 as the next exhibit, please.

25 (Exhibit 7 was marked for identification.)

1 BY MR. JOHNSON:

2 Q I'm going to show you -- or would you please look
3 for the --

4 A I'm sorry. Did you say Document 7?

5 Q Document 11. Document 11 is what we're going to
6 do next. Do you recognize this email chain?

7 A I do.

8 Q And it's an email chain between you and Howard
9 Cusick, with copies to Ruth Fordham, correct?

10 A That's correct.

11 Q And then the last email in the chain, on the
12 second page, is an email from you to Jesse James,
13 correct?

14 A That's correct too.

15 Q So would it be fair to say, to correctly summarize
16 this, that Howard Cusick asked you if you would share the
17 assessment with Jesse James, and you replied "I'll send
18 it to him now"? So did you send the evaluation to --
19 that Mr. Goforth had done, to Mr. James? It's dated the
20 same day as he -- that the assessment is dated that we
21 went over earlier.

22 A I -- you know, without going through my emails, I
23 don't know exactly when I did, but I do know I did send
24 it to him.

25 Q Okay. And it's dated October 17th, which was the

1 same day as the assessment we went over earlier that we
2 identified as being authored, on its face, by
3 Mr. Goforth?

4 A That's correct.

5 Q Okay. So, you are saying in your email to
6 Mr. James, "Have you had the opportunity to discuss with
7 your reports the lessons learned we discussed in your
8 office?" I do not see an email response. I haven't been
9 given one in document production, to that.

10 Was that part of the we'll get -- I'll get back to
11 you, and never got back to you?

12 MR. MEALOR: Objection.

13 A Yeah, he never did get back to me, that I
14 remember. I was -- I do remember being frustrated.

15 Q And your last sentence in your email to him was
16 "We need to address these to get ready for the
17 consolidation and shipping work this winter."

18 So, would that have been cycle 15 scheduled to
19 begin in...

20 A No. That was the --

21 Q Oh, this was back in '17. Yeah, I see what
22 you're -- yeah.

23 A Yes.

24 Q All right. Let's just leave it there then. Thank
25 you.

1 MR. JOHNSON: So let's identify this one
2 as...

3 THE REPORTER: Number 8.

4 (Exhibit 8 was marked for identification.)

5 BY MR. JOHNSON:

6 Q Let's take a look at Document 12. Are you with
7 me?

8 A I am. I am. I'm looking at it.

9 Q Let me know when you're done looking at it.

10 A I'm looking at it now. (Reviewing document.)

11 Q Are you saying you're ready?

12 A I'm ready.

13 Q Okay. So this appears on its face to be an email
14 from you to Jesse James, with a copy to Carla Borreli and
15 James Keck. So to identify the players here, we already
16 know who Jesse James is. You identified Mr. Keck as one
17 of your superiors. Who's Carla Borreli?

18 A Carla Borreli -- there's two senior program
19 managers for tritium. We split some of the -- certain
20 responsibilities up. Carla is the other senior program
21 manager. She is responsible for interfacing with the
22 Department of Energy for budget, is one of her
23 responsibilities.

24 Q So that's who you were referring to earlier that
25 was primarily responsible for the budget?

1 A That's correct.

2 Q Okay. So, it appears, correct me if I'm wrong,
3 that in this email you're sort of nudging Jesse James
4 into actually responding to an email that you had sent,
5 what, 19 days before, correct?

6 A That's correct.

7 Q So your earlier email on September 6th said "Carla
8 Borreli and I would like to meet with you sometime the
9 week of September 18th to 22nd to discuss cycle 14 TPBAR
10 consolidation future shipping efforts."

11 So, when you sent that email, I take it you never
12 got a reply, and so you had to send the one of September
13 25th?

14 MR. LANTIS: Objection to form.

15 A That's correct.

16 MR. JOHNSON: Let's mark this as the next
17 exhibit.

18 (Exhibit 9 was marked for identification.)

19 BY MR. JOHNSON:

20 Q We're getting towards the end.

21 Please look at Document 13, please.

22 A Okay. I'm ready.

23 Q What is this document? Can you identify it?

24 A Let me make sure. (Reviewing document.)

25 Yeah. Okay.

1 So, we did the assessment. And then someplace in
2 there I did meet with Jesse James and had told him I was
3 going to write a CR on this, a condition report, so that
4 we could document everything. And --

5 Q What was his reaction to that?

6 A Well, he -- there was no reaction to it.

7 Q All right. And so who actually authored this CR?

8 A I can't remember if it was Robert Goforth or me.

9 Q Well, look on page 2 of the exhibit, about
10 two-thirds of the way down, where it says User
11 Information.

12 A I'm looking. (Reviewing document.) Oh, I take it
13 back. Originator. So, Howard Cusick. All right. All
14 right. So there's probably another email in there where
15 Howard and I were discussing about who's s going to put
16 this in, who's going to put this CR in.

17 Q And what was the content of that conversation and
18 its result?

19 A The content was just we both knew about the
20 assessment, and it kind of went like this: Do you want
21 to put it in or do I want to put it in?

22 I wanted -- I would have preferred that Howard
23 Cusick had put it in, just because I felt that that would
24 have more gravity coming from employee concerns, and
25 because I wasn't getting any action from the maintenance

1 director.

2 Q All right. And if you look at the first page, the
3 condition details, there -- and it continues on to the
4 second page. There are 13 condition details listed. Can
5 you review those and tell me if those correspond to the
6 13 gaps identified in Mr. Goforth's evaluation of October
7 '17?

8 A They do. They do.

9 Q So it pretty much just tracks Mr. Goforth's
10 evaluation?

11 A That's correct.

12 MR. MEALOR: Objection.

13 Q Do you know if Mr. Cusick interviewed Mr. Goforth
14 as a part of his investigation before doing this CR?

15 MR. MEALOR: Objection.

16 A I don't have any knowledge of that.

17 Q Did Mr. Goforth -- I'm sorry. Go ahead.

18 A I, you know -- once this goes to employee
19 concerns -- anything that goes to employee concerns, I
20 just stay out of it, in principle, and just respond to
21 anything that they want or ask. So, I don't --

22 Q Did you --

23 A -- know if Robert talked to Mr. Cusick or not.

24 Q Did you --

25 A I would be surprised if he didn't. But -- and now

1 that I'm thinking about it, I believe Robert told me he
2 did talk to employee concerns. Exactly who, I don't
3 know.

4 Q Did you follow up on this CR to see what, if
5 anything, it wound up accomplishing?

6 A So, yes, I did follow up on the CR, and I did not
7 feel that the conditions were answered sufficiently.
8 However, there were changes made, and that the next
9 consolidation campaign was much better. So, I think the
10 CR had its intended effect. But I, I -- if you look --
11 if you read how it was answered, you know, at least the
12 written answers I didn't feel were sufficient. But
13 overall it did have its intended effect.

14 MR. JOHNSON: Let's mark this Cusick CR as
15 the next exhibit.

16 (Exhibit 10 was marked for identification.)

17 BY MR. JOHNSON:

18 Q Who would've been responsible for responding to
19 this CR?

20 A The mechanical maintenance department supervisor
21 was responsible for that.

22 Q Was that Jesse James?

23 A No. That would be one of his reports.

24 Q Let's look back at -- for you it's Document 3.
25 And it's the third page of Document 3.

1 A Okay.

2 Q And maybe you can't tell from this, but do you
3 know who that would have been that was, you believe,
4 would've been responsible for responding?

5 A Yeah. That would've been -- and I don't even see
6 it here but I know who it was. It was Steve Cook.

7 Q Okay. And --

8 A Oh, there it is. Yeah.

9 MR. LANTIS: When he says "there it is,"
10 where is that? If you could identify that.

11 THE WITNESS: That's -- it says -- top of,
12 top of the page it says TVA Nuclear (12 of 39.)

13 Q So, looking at what you have just referred to, it
14 shows the director of maintenance as of -- as Tony White,
15 and Steve Cook working for him.

16 By the time the responses for the CR were done,
17 was Tony White had then replaced Jesse James?

18 A I would have to, I would have to look at that. I
19 would have to look it up to be certain.

20 Q Well, you had the expectation that Tony white,
21 whether he addressed the CR with Steve Cook, would have
22 in any event known about it coming on as the new director
23 of maintenance, replacing Jesse James?

24 MR. MEALOR: Objection.

25 A I would expect him to be knowledgeable of it.

1 Q Did you ever discuss it with Tony White; that is,
2 either the Cusick CR or the evaluation that you and/or
3 Mr. Goforth wrote?

4 A I don't have any memory of discussing it with him.
5 I could have.

6 Q How widely -- I'm sorry. I'll let you think for a
7 minute because I know you're trying to recall things.

8 A I, you know, frankly, I don't think that I
9 discussed it directly with Tony White. I did discuss it
10 directly with Steven Cook, and I wasn't given a very
11 satisfactory response from him.

12 They had promised us -- "us" being the tritium
13 program, to take some actions when we first started to
14 use the shop for this; such as do a change management
15 plan and to do a memorandum of understanding with us.
16 And they wouldn't -- they said they would, but they never
17 did, and then about this time they said they weren't
18 going to do it. And if I discussed anything with Tony
19 White, it might've been complaining that I wasn't getting
20 a memorandum of understanding or a change in management
21 plan. But I truly can't remember whether I did or
22 didn't. If I did, it would've been face to face,
23 catching him in the hall or something like that.

24 Q But you do remember having that discussion with
25 Steve Cook?

1 A Oh, I, I definitely remember that.

2 Q And would that have been in reference to the
3 Cusick CR and the evaluation by Mr. Goforth, both?

4 A Yes.

5 Q Let me ask you a more general question about CRs.
6 What's the distribution for CRs at Watts Bar?

7 A CRs are --

8 MR. MEALOR: Objection.

9 A CRs are distributed daily. There is a report that
10 goes out. It doesn't go to everybody, but you can get
11 put on the distribution to it, that tells every CR that's
12 written in the last 24 hours.

13 Q Do CRs automatically go to certain people at a
14 certain management level without their asking for it?

15 A Yes.

16 Q And what is the cutoff sort of for that?

17 A Well, there's a review committee every morning
18 that meets and decides who's going to own that CR, and
19 then that goes to that manager.

20 And so, for instance, if this one went to
21 mechanical maintenance, Steve Cook, then Tony White would
22 also get a -- be on a distribution, at least to say that,
23 you know, here's -- or whoever the maintenance director
24 was at the time, that, hey, you know, you're getting this
25 CR and here's the subject of it.

1 Q So if there were responses to the CR by people
2 following the CR, those responses would also go to Tony
3 White if he were there managing at the time those
4 responses to the CR were made?

5 A No --

6 MR. MEALOR: Object to form.

7 A -- not necessarily. If you'll look at the CR, I
8 believe it was an Echo level CR, lower level CR.
9 Something like an Alpha or a Bravo, I would expect the
10 maintenance director to be knowledgeable of. But an Echo
11 level, I would -- the knowledge he would have of it is
12 the due dates are coming up and it's on the radar screen
13 because the time to have the action written is coming up.
14 Then he would get together with his directors responsible
15 for that and make sure that the corrective actions were
16 done.

17 Q And so whoever was responsible for that would have
18 the responsibility to tell Tony White what was done as
19 responsive to the CR?

20 A Once again, not, not procedurally. So, I, I don't
21 know -- I really don't know if Tony White knew exactly
22 what the responses were to that CR. I know that -- so, I
23 don't know.

24 Q All right. Would the distribution for CRs also go
25 to DZ employees?

1 dry cask campaign was rescheduled. So let's see.
2 October 16th. So, "current schedule shows first
3 production and a waste shipment..." So that, that is
4 rescheduling our production and waste shipments to align
5 with the dry cask campaign.

6 Q All right. And the subject matter is, is it not,
7 "Cycle 15 Tritium TPBAR Consolidation and Shipments"?

8 A Cycle 15. (Reviewing document.) Okay. So...

9 Q So would it be true, then, that being the case,
10 that this October 16, 2018 email is Robert beginning
11 planning and scheduling for the upcoming cycle 15?

12 MR. MEALOR: Objection.

13 A Yes.

14 Q Now, the manway cover, I will tell you it's clear
15 in the record, was found off on October 19th. Robert was
16 suspended on October the 22nd, and then he was terminated
17 a little more than a month later.

18 So, after this message about getting ready for
19 cycle 15 and up to the time he was terminated, did anyone
20 from DZ talk to you about the manway cover incident
21 underlying the termination?

22 MR. MEALOR: Objection.

23 A So, from this time up to the time he was
24 terminated. Yes. But it was because I initiated contact
25 with them, not because they contacted me. I was trying

1 to find out what was happening with Robert.

2 Q And who did you contact?

3 A I'm trying to think. Freddie Gibson was one, but
4 he wasn't -- there was -- I can't remember the guy's
5 name, it was his boss. And I really can't remember his
6 name. But I was, I was trying to get everybody I could
7 think of, DeWarren Washington and Freddie Gibson and --
8 gosh darn, I'm trying to think of the guy's name. It was
9 like Freddie's --

10 Q Was it Dusty Rhodes?

11 A No, it was not. No. Dusty is TVA. This was --
12 it was a DZ person above --

13 Q Was it John Reeves?

14 A Bingo. Thank you.

15 Q Okay. So when you tried to find --

16 A And I believe he was the one who contacted me.
17 Because I wanted to know what was going on. We've got a
18 campaign coming up, you know, and am I going to be able
19 to keep continuity of Robert. Because he was -- you
20 know, he's essential to be on that team.

21 Q Did you initiate that conversation with
22 Mr. Reeves?

23 A I initiated -- I think I made some phone calls. I
24 got some numbers and made some phone calls, said please
25 call me back. And he called me, he called me back.

1 Q Did any of the others that you contacted call you
2 back?

3 A No.

4 Q Who were the others that you contacted, to the
5 best of your memory?

6 A I think Freddie Gibson and DeWarren Washington.

7 Q Did you call them more than once when they didn't
8 return your call?

9 A I called DeWarren Washington a couple of times. I
10 didn't call Freddie Gibson, because the other gentleman
11 had got back with me by then.

12 Q And when you called DeWarren Washington a couple
13 of times, you got no response?

14 A Yeah, I got no response. I don't really ever
15 remember talking to DeWarren Washington after this
16 happened, about anything.

17 Q When you had the conversation with Mr. Reeves, can
18 you tell me about the content of that conversation?

19 MR. MEALOR: Objection.

20 A Well, I was asking them, you know, when are they
21 going to make a decision on Robert and what do you think
22 the decision is going to be made. I forget exactly when
23 he told me they would be making the decision. I remember
24 it was going to be soon. And he said, "It doesn't look
25 good." And I said -- basically I was -- it was "Do I

1 need to go out and get -- you know, make some other
2 arrangements for a task manager?"

3 And he said, "It doesn't look good. I would if I
4 were you."

5 Q Do you recall approximately when that was in
6 relation to October 19th when the manway was discovered
7 off and October 22nd when Robert was suspended? Maybe
8 that's the best time. Let me ask it -- change the
9 question.

10 When Robert was suspended, that's something you
11 probably found out about fairly promptly, would that be
12 correct?

13 A Right.

14 Q Did Robert tell you he was suspended?

15 A Yes. I talked with Robert. DZ never told me he
16 was suspended.

17 Q So how soon after you talked --

18 A And I was, I was never formally advised, from DZ
19 or TVA, that he was suspended.

20 Q Did anybody from TVA or DZ invite your input into
21 the decision-making process on the termination?

22 A No.

23 Q Did anybody from TVA or DZ ever invite you to
24 participate in a decision about revoking his clearance?

25 A No.

1 MR. JOHNSON: Let's mark this as the next
2 exhibit, please.

3 (Exhibit 14 was marked for identification.)

4 BY MR. JOHNSON:

5 Q So going back for a moment to Howard Cusick's CR.
6 We talked a little bit about who you talked to about
7 that, and it was Jesse James. I'm going to give you some
8 other names. And we talked about Tony White. You
9 couldn't remember but you kind of had the expectation
10 that he would've known about it. But let me ask -- run
11 some other names by you just to make sure whether you
12 ever talked to any of these people about either
13 Mr. Goforth's evaluation or the Cusick CR.

14 How about Dusty Rhodes?

15 A No.

16 Q DeWarren Washington?

17 A No. I tried to talk to DeWarren but he wouldn't
18 ever get back with me.

19 Q You tried to talk to him about the Cusick CR and
20 the evaluation?

21 A No. Not the Cusick CR. No. About the suspension
22 of Robert. Sorry.

23 Q Okay. Well, I'm talking about the Cusick CR and
24 the evaluation now.

25 Did you talk to Paul Simmons about the Cusick CR

1 or the evaluation or the events that occurred during
2 cycle 14?

3 A Not that I can remember.

4 Q Did you know that Robert had filed an
5 MSPB complaint about his treatment with regard to getting
6 a job at TVA?

7 A I did.

8 Q And what, if anything, did Robert inform you about
9 that?

10 MR. MEALOR: Objection.

11 A That he was working through, I believe it was VFW,
12 with a lawyer at VFW, and he'd filed a complaint for not
13 getting veterans' preference.

14 Q Did he inform you that within his complaint he
15 also said that he was being retaliated against for having
16 done the evaluation and the Cusick CR?

17 A He might have. I, you know, I don't -- I can't
18 recall. He might have.

19 Q Did there come a time in that MSPB process when he
20 informed you anything about the scheduling of events to
21 occur procedurally in that proceeding?

22 A He did. He did. We did talk about that. I
23 did -- I can't remember if he called me or I called him.
24 I probably got in contact with him one way or another to
25 try to figure out if and when he'd ever come back. And I

1 know we had talked about it.

2 Q Did he tell you that the proceeding was to go into
3 a mediation and he thought there was a solution to be had
4 of giving him a position?

5 MR. MEALOR: Objection.

6 (Answer given simultaneously with the
7 objection.)

8 Q He did?

9 THE REPORTER: I'm sorry, sir?

10 (To Mr. Johnson) Was that a yes?

11 Mr. McGuire, could you repeat your answer,
12 please, sir?

13 A Yes. Yes.

14 THE REPORTER: Thank you, sir.

15 BY MR. JOHNSON:

16 Q And was it your understanding from Robert that the
17 position he was applying for that he didn't get would've
18 allowed him to do his tritium job but as a full-time,
19 permanent employee of TVA, direct employee of TVA?

20 MR. MEALOR: Objection.

21 A So -- no. From my memory, I think we're getting
22 positions mixed up. There is no -- at this time, no
23 full-time tritium task manager. We're using a task
24 manager from the maintenance shop who a lot of this time
25 is towards that. But nobody has filled Robert's position

1 right?

2 A That's correct.

3 Q Will that CR committee do something to alert the
4 person responsible or the persons responsible in that
5 particular department about the need to develop
6 corrective action?

7 A Yes.

8 Q So that would be in addition to being on the list
9 to receive the CR reports; is that correct?

10 A That's correct. Once it goes through the CR
11 screening committee, then the department -- the person
12 who's head of the department would get a notification
13 that -- and if they assign it to a specific person, that
14 would get a notification that, you know, you have to do a
15 corrective action plan with the CR.

16 Q And when you say "a notification," is that like
17 another report that comes out? Or is someone from the CR
18 committee going to send an email or pick up the phone and
19 call this person?

20 A No. It would be, it would be a report. And I'm
21 kind of just shooting from the hip on this also. I'm not
22 that familiar with -- lately with how it works as far as
23 the notifications. My familiarity goes back probably ten
24 years, and I used to sit on that committee.

25 Q Understood. So if there is a CR that's raised

1 that doesn't specifically impact your department, other
2 than it may be listed in one of these ten to 50 CRs on a
3 day-to-day basis, you're not going to get additional
4 notification beyond that; is that correct?

5 A That would be correct.

6 Q I want to shift -- we talked a little bit -- if
7 you'll wait one second. There's a fire truck right
8 outside. I'd like to let this pass by before I continue.
9 That wasn't as bad as the last one.

10 We talked a lot today about what I'm going to call
11 the TPBAR cycle 14 issue. Does that -- if I say that,
12 "the TPBAR cycle 14 issue," in reference to the video
13 that Mr. Johnson showed you and then the CR that came out
14 as a result of that, and I think it was gap number 9 in
15 the assessment, do you know what I'm referring to?

16 A Yeah. Yes, I do.

17 Q Did anyone ever -- at TVA, rather, did any
18 employee, manager, director -- I use that term broadly,
19 did anyone at TVA ever express to you anger or upset
20 about Mr. Goforth reporting that issue?

21 A No.

22 Q Same question for DZ. And I mean "DZ" in the same
23 broad, expansive definition. Employee, officer,
24 director, manager, supervisor. Anyone from DZ ever
25 express anger or upset about Mr. Goforth reporting that

1 issue to you?

2 A No.

3 Q Did anyone from TVA or DZ -- and I'm using the
4 phrases "DZ" and "TVA" like I just defined them for the
5 last question.

6 Did anyone from DZ or TVA ever express any anger
7 or upset to you about Mr. Goforth's involvement not just
8 in the 2017 TPBAR issue but his involvement in the -- I
9 think what we've called the Cusick CR or the assessment
10 or the evaluation?

11 A No.

12 Q I want to be very specific. Did Paul Simmons ever
13 express any upset or anger to you about Robert Goforth
14 for any reason?

15 A No.

16 Q Same question for Tony White.

17 A I have to think about this. Give me the question
18 again.

19 Q Did Tony White ever express any anger or upset
20 about Robert Goforth for any reason to you?

21 A Yes. For the, for the cover not being off of the
22 MSR. Yes.

23 Q And what did he say to you, that you recall?

24 A He said that -- and the phone call was on a
25 Saturday after the Friday, I believe, that it happened.

1 That he was giving me a heads-up that I wouldn't be able
2 to use Robert Goforth for the upcoming campaign that
3 Monday. And he said that Robert had confessed or
4 admitted to not -- signing off a verification that those
5 covers weren't put on -- or were put on when he hadn't
6 done that, and that Robert had refused to give in writing
7 what happened.

8 Q Other than -- I'm sorry. Go ahead, if you're not
9 done.

10 A I am. I think that's...

11 Q Okay. Other than arising out of the, what I'll
12 call the manway cover issue, did Tony White make any
13 other comment to you where he expressed anger or upset
14 with Robert Goforth for any reason?

15 A I asked Tony White what he thought the chances
16 were that we might be able to use Robert Goforth and that
17 he might not be removed from the site. And he asked me a
18 question. He said, "Do you know that Robert has a
19 conflict with TVA?" And I said yes, although I wasn't
20 sure what he was talking about, looking back on it. And
21 that if, if -- so -- and if I wanted to keep Robert
22 on-site, I need to talk to Paul Simmons.

23 Q And do you recall when that conversation occurred?

24 A It was the Saturday after the Friday that they
25 noticed -- they found the covers off. I could look at a

1 calendar and I could probably give you a date.

2 But we were starting -- I believe it was Friday
3 when they came in and they had -- they called everybody
4 in and had their investigation, put the cover back on.
5 It was Saturday when Tony called me. And the campaign
6 was supposed to start on a Monday. It was, you know,
7 sometime around the middle of October 2018.

8 Q Did you ever talk to DeWarren Washington about
9 Mr. Goforth?

10 A I asked him once -- now that I thought about it --
11 face to face about what the outcome was going to be with
12 Robert, and didn't get an answer. And I left him a phone
13 call. I'd have to go back and check my email. I
14 might've emailed him. I was trying to figure out if I
15 was going to be able to use Robert or not.

16 Q In your capacity within the tritium program, did
17 you have any involvement in the oversight of
18 Day & Zimmermann personnel working during the outage?

19 A No.

20 Q Were you involved in the decision to terminate
21 Mr. Goforth?

22 A No.

23 Q Were you involved in the ERB process that arose
24 out of Mr. Goforth -- the decision to terminate his
25 employment?

1 A No.

2 Q Did anyone from TVA ever express to you that they
3 felt that Mr. Goforth should be terminated?

4 A Say it again, please.

5 Q Did anyone from TVA ever express to you that they
6 felt Mr. Goforth should be terminated?

7 A Should or should not?

8 Q Should.

9 A Should. Tony White.

10 Q When did Mr. White say that?

11 A It was that phone call on the Saturday.

12 Q Shifting gears again to the issue of the
13 Albuquerque trip.

14 Sorry. There's no reasoning for the order of
15 these questions. They're just where they came in my
16 notes.

17 Do you know why Mr. Goforth wasn't able to attend
18 that conference?

19 A The only thing I know is that the authorization
20 from DZ wasn't done. That's all I know.

21 Q And where did you learn or where did you obtain
22 that piece of information from?

23 A From Robert.

24 Q Based on a conversation you had with him?

25 A Right.

1 Q Did you ever talk to DeWarren about what the issue
2 was?

3 A No.

4 Q Did you ever inquire from anyone at
5 Day & Zimmermann what the issue was?

6 A No.

7 Q Did Robert ever tell you that he just needed to
8 submit his expenses after the fact because they didn't
9 have a corporate credit card available?

10 A No.

11 Q Again switching gears. Am I correct that
12 Day & Zimmermann site management did not have any direct
13 involvement in the tritium program?

14 A That's correct.

15 Q And so just to be clear, in other words, there was
16 no Day & Zimmermann counterpart to you within the tritium
17 program?

18 A No.

19 Q If there was a CR that arose out of a need for
20 corrective action for an incident that occurred within
21 the tritium program, is that something that you would
22 expect someone from Day & Zimmermann would be assigned to
23 perform some sort of corrective action?

24 A Not if -- not for the CR that was written. I
25 mean, it's possible they could've gotten a corrective

1 action from something stemming from tritium, but not from
2 that assessment.

3 Q And when you're saying "that assessment," we're
4 talking about the cycle 14 CR and assessment that we've
5 talked about extensively today?

6 A That's correct.

7 Q John Reeves. You mentioned his name earlier.
8 Other than that call that you talked about that you got
9 from him with respect to Mr. Goforth, had you ever talked
10 to John Reeves before? Did you know who he was?

11 A No, I did not.

12 MR. LANTIS: All right. Mr. McGuire, those
13 are the only questions I had for you. Thank you so much.

14 RE-EXAMINATION

15 BY MR. JOHNSON:

16 Q I have just one follow-up question to those
17 questions by Mr. Lantis, Mr. McGuire. This was something
18 that I heard for the first time. You said that Tony
19 White said to you, in your conversation on the Saturday
20 after the manway covering incident occurred, that Goforth
21 had a conflict with TVA. That's what I heard you to say.
22 Is that correct?

23 A That's correct.

24 Q And so we talked earlier about the fact that
25 Goforth had pending an MSPB complaint against TVA that

1 seemed headed towards a resolution. Was that the only
2 conflict that you are aware of going on between Goforth
3 and TVA at the time that you had that conversation with
4 Tony White?

5 A Yes.

6 MR. JOHNSON: That's all the questions I
7 have. Thank you, sir, so much.

8 May the witness be excused?

9 MR. LANTIS: Unless there's anything from
10 TVA's counsel.

11 MR. MEALOR: Yes. Thank you. You'll be
12 excused very soon, I believe.

13 EXAMINATION

14 BY MR. MEALOR:

15 Q I just wanted to clarify some terminology that had
16 been used earlier in questioning about working an outage,
17 in terms like -- in terms of like "all hands on deck" and
18 discussion about secretaries doing other jobs during an
19 outage.

20 When there was mention of people doing different
21 jobs during an outage, do you mean different positions,
22 that they were reassigned with new managers?

23 A Not reassigned to be managers, but to do things
24 that were outside their normal scope of work. I'm trying
25 to think. For instance, Robert, normally he would work

REPORTER'S CERTIFICATE

STATE OF TENNESSEE:

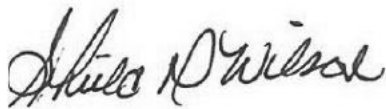
COUNTY OF HAMILTON:

I, Sheila D. Wilson, Licensed Court Reporter #268 and Notary Public, in and for the State of Tennessee, do hereby certify that the deposition of JEFFREY MCGUIRE was reported by me, and that the foregoing 134 pages of the transcript is a true and accurate record to the best of my knowledge, skills, and ability.

I further certify that I am not related to nor an employee of counsel or any of the parties to the action, nor am I in any way financially interested in the outcome of this case.

I further certify that I am duly licensed by the Tennessee Board of Court Reporting, as evidenced by the LCR number and expiration date following my name below.

In witness whereof, I have hereunto set my hand this 20th day of September 2021.



Sheila D. Wilson, LCR #268
Expiration date: 6/30/2022.
Notary Public Commission
Expires: 1/25/2023.

Zoom Deposition

1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TENNESSEE
3 AT CHATTANOOGA

4 -----
4 ROBERT M. GOFORTH, :
5 Plaintiff, :
6 vs. : NO: 1:20-CV-254
7 TENNESSEE VALLEY AUTHORITY :
and DAY & ZIMMERMANN NPS, INC., :
8 Defendants. :
9 -----

10 Chattanooga, Tennessee
October 1, 2021

11 ZOOM DEPOSITION OF JESSE JAMES
12 -----

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25

1 JESSE JAMES,
2 called as a witness at the instance of the Plaintiff,
3 having been first duly sworn, was examined and
4 testified as follows:

5 EXAMINATION

6 BY MR. JOHNSON:

7 Q Mr. James, I'm Jim Johnson, and I represent
8 Robert Goforth in the lawsuit that he presently has
9 pending against TVA and Day & Zimmermann regarding his
10 termination back at the end of 2018. So the purpose of
11 your deposition today is for us to explore things that
12 you may know surrounding the allegations in the lawsuit
13 that would be helpful to the parties and the court to
14 understand what, what went on back then. So I'll be
15 asking you questions, and you'll be answering them.
16 And you are under oath subject to penalty of perjury, I
17 would remind you.

18 So let me ask you this question, first. Well,
19 let's identify you for the record in full. What --
20 what's your name?

21 A My name is Jesse James. I'm the Strategic
22 Alliance Director for TVA.

23 Q And please give us your address.

24 A My address is 9660 Hamby Road, Soddy-Daisy,
25 Tennessee 37379.

1 Q Have you given a deposition before?

2 A No.

3 Q All right. Well, I'll, I'll explain to you a
4 few things that may help us out as we go forward. The
5 court reporter, who's sitting across the table from me,
6 is taking down every word that I say and every word
7 that you say, and will make a transcript of what we
8 said. So it's very important for her benefit to make a
9 clear record that when I ask questions, you allow me to
10 completely finish asking the question before you begin
11 your answer. Frequently you may think you know the
12 answer, but if we talk over one another, she has a lot
13 of difficulty in determining who's saying what. So
14 please let me finish the questions, and I will do my
15 very best to try to make sure that you finished your
16 answers before I ask another question. So does that
17 sound fair enough as we proceed?

18 A It does.

19 Q Okay. And that brings up another point. When I
20 ask a question, you have to answer out loud and
21 audibly. She cannot pick up nods of the head, shakes
22 of the head, gestures, things like that. So be sure
23 that you're answering all the questions audibly. Okay?

24 A Yes, sir.

25 Q All right. So you mentioned your job title when

1 you gave your name, but go ahead and tell me again what
2 your present job is.

3 A I am the Strategic Alliance Director for TVA
4 Nuclear.

5 Q And explain to me what you do in that job.

6 A My job, I have five alliance contractors that I
7 manage their contracts in making sure they comply with
8 TVA policies and procedures.

9 Q Is one of those contractors Day & Zimmermann?

10 A Yes, sir.

11 Q Okay. So with respect to your position at --
12 well, let me ask you this. How long have you held that
13 position?

14 A I started this job April 1st, 2018.

15 Q Was that the time -- at the time when you left
16 your position as a manager in the maintenance
17 department at -- at TVA?

18 A Prior to this job I was the maintenance director
19 at Watts Bar Nuclear.

20 Q In your job, the performance of your duties as
21 the Strategic Alliance Director with managing the
22 relationship with Day & Zimmermann, did Mr. Goforth
23 come up as a topic within your role as that after you
24 took that role as Strategic Alliance Director?

25 MR. BERNIER: Objection to form. Jesse,

1 you can answer.

2 MS. LINDGREN: Objection to form.

3 THE WITNESS: Did Mr. Goforth come up?

4 BY MR. JOHNSON:

5 Q Yeah. Let me -- let me try to make it a little
6 bit easier on you. Once you became the Strategic
7 Alliance Director in April of 2018, did you, in your
8 new role, have anything to do with Mr. Goforth's
9 termination up to the time that he was terminated?

10 A No, sir.

11 Q Did -- in your new role, up to the time of
12 Mr. Goforth's termination, did Mr. Goforth ever come up
13 as a topic of communication between you and anyone at
14 Day & Zimmermann?

15 MR. BERNIER: Objection to form.

16 MS. LINDGREN: Objection to form.

17 MR. BERNIER: You can answer.

18 BY MR. JOHNSON:

19 Q Let me --

20 A Before --

21 Q Go ahead.

22 A So, am I aware of Mr. Goforth's termination? Is
23 that what you're asking?

24 Q I'm asking in your role as the Strategic
25 Alliance Director that began in April of 2018, did you

1 have any communications with DZ people about
2 Mr. Goforth prior to his termination?

3 A Yes.

4 Q And who would those people have been? And we
5 can deal with them one at a time.

6 A During, that would be John Reeves.

7 Q Okay. And when did you have a conversation with
8 John Reeves -- or a communication with John Reeves?

9 A After the determination of what was the
10 employment condition of Goforth.

11 Q All right. Tell me what that communication was.

12 A The communication was making sure the adverse
13 action review board process was followed for any
14 employment-related conditions with any individual,
15 including Goforth.

16 Q So who called -- who initiated the
17 communication? Was it you or Mr. Reeves?

18 A It would be Mr. Reeves letting me know.

19 Q And so what did Mr. Reeves say to you -- or what
20 type of communication was that? Was that an email?
21 Was it a, a phone conversation? A text?

22 A I would -- pretty standard would be a -- an
23 email, if there was any adverse action being taken on
24 any employees.

25 Q Do you recall, beyond what the usual practice

1 is, what type of communication it was that you were
2 having with Mr. Reeves? Meaning telephone, in person,
3 email? Do you recall?

4 A It would not be in person, because that would be
5 handled at the site for any employment-related concerns
6 with any site employee. My communication would be
7 email and making sure that -- again, at the time, we
8 were going through some scrutiny by the NRC with an
9 adverse action review process, so my concern was making
10 sure any of my alliance partners, when they're going
11 through any adverse action, was following the process
12 correctly.

13 Q All right. So let's get into what the
14 communication was. Did you tell me who initiated --
15 and I know I asked that question, and now I'm not
16 remembering the answer.

17 A It would be John Reeves.

18 Q And so what did John Reeves say when he made the
19 communication to you?

20 A It was -- I mean, there's a communication
21 around -- or taken an employment action with an
22 individual.

23 Q And the individual was Mr. Goforth?

24 A I don't recall that email being specific by
25 name. I look -- I never worry about the name. I'm

1 more worried about the process we're following.

2 Q Well, do you know if in fact that was about
3 Mr. Goforth, regardless of what names may have been
4 mentioned?

5 A No.

6 Q All right. Tell me about the rest of the
7 conversation.

8 A The conversation --

9 Q Or --

10 A -- would be --

11 Q Go ahead.

12 A So the conversation would be around if you're
13 taking an adverse action, you got to follow our
14 processes and procedures for TVA to do that, which is,
15 you know, get with the site. You know, the site's
16 going to implement that. You have to follow the -- you
17 know, get through the maintenance director and site VP
18 and plant manager to follow that process correctly and
19 get the adverse action process completed.

20 Q Did you have any further communications with
21 Mr. Reeves concerning this adverse action?

22 A Not to my memory.

23 Q Did you have any conversations about this
24 adverse action with Mr. Sanders?

25 A No.

1 Q Did you have any communications regarding this
2 adverse action with anyone else that you haven't
3 already told me about?

4 A No.

5 Q And now, let me specifically talk about
6 Mr. Goforth. Did you have any communications regarding
7 Mr. Goforth between the time that you assumed this role
8 in April 2018 and the time of his termination?

9 MR. BERNIER: Jim, I'm, I'm going to
10 object, just out of an abundance of caution, to the
11 extent that it includes any conversations with
12 attorneys that would be subject to attorney/client
13 privilege. I don't think that's what you're asking,
14 so...

15 MR. JOHNSON: Well, it's not what I'm
16 asking in terms of any legal advice, but I think I can
17 ask him if he had communications with an attorney --
18 just not get into legal advice.

19 BY MR. JOHNSON:

20 Q So let me kind of translate that exchange I just
21 had with Mr. Bernier for you, Mr. James. I'm not -- I
22 don't want you to tell me any advice that a lawyer may
23 have told you -- but included within people you may
24 have had contact with about Mr. Goforth would be
25 lawyers. You can tell me that you had contact with a

1 particular lawyer, just don't tell me what the lawyer
2 advised you about that. Are we clear about that?

3 A I am.

4 Q Okay. So let me repeat the question. What
5 communications, if any, did you have with persons at
6 TVA or Day & Zimmermann about Mr. Goforth between the
7 time you assumed your role in April 2018 and
8 Mr. Goforth's termination?

9 MS. LINDGREN: Object to the form.

10 BY MR. JOHNSON:

11 Q And, and there -- let me just say a word about
12 these objections. When objections occur, you can
13 disregard the fact that the objection has been made.
14 It's just for the record for the lawyers to deal with
15 at a later time, and you still have to answer the
16 question unless one of the lawyers instructs you not to
17 answer the questions, okay? So that will be throughout
18 the deposition. When you hear those objections, just
19 continue with your answer unless instructed not to
20 answer. Are we -- are we clear on that?

21 A Yes, sir.

22 Q Okay. So I'll repeat the question for you
23 again, and the objection is preserved, Ms. Lindgren.
24 What communications, if any, did you have with
25 anyone at TVA or DZ regarding Mr. Goforth between the

1 time you assumed your position on April 1st, 2018 and
2 Mr. Goforth's termination?

3 A I have talked to lawyers. I have talked to the
4 NRC about, about Mr. Goforth.

5 Q Okay. Now, I want to -- so have you -- you now
6 told me all communications you've had with anyone
7 between April of 2018 and Mr. Goforth's termination
8 that concerned Mr. Goforth?

9 A That is correct. That -- and including the DZ
10 email that we've talked about.

11 Q Right.

12 A Yes.

13 Q Okay. So let's, let's move then to pre-April of
14 2018 for the questions that I'm going to ask now. And
15 if you will, in connection with that, look at the
16 Document No. 1 that we sent to you earlier.

17 A Document No. 1?

18 Q Yes, sir.

19 A Okay. Maybe I'm not prepared to -- let me...

20 Can you resend that -- what email are you
21 talking about? What date did that come in?

22 MR. BERNIER: Jesse, these are the
23 documents that were in the link of the -- like the Box
24 link that we sent you this morning.

25 THE WITNESS: All right. Hang on.

1 A Specifically, I don't know why. I think it was
2 retirement.

3 Q Did you hear anything from anyone at TVA
4 suggesting why he left --

5 MR. BERNIER: Objection to form.

6 BY MR. JOHNSON:

7 Q -- other than retirement?

8 A No. Other than retirement, no.

9 Q So who made the -- was there a decision made in
10 2017 for TVA/MMG workers to replace Day & Zimmermann
11 workers within the tritium program?

12 A Yes.

13 Q Who made that decision?

14 A Myself.

15 Q Did you have to get approval for that decision
16 from anyone else?

17 A No approval. Just making sure I was on line
18 with my leadership, be it the plant manager.

19 Q Did that approval of a lineman extend to
20 Mr. Simmons?

21 A I would not know that. I assume the plant
22 manager talked with Paul to make sure he was in line
23 with that move.

24 Q At that time was there a struggle within MMG to
25 keep its workers full-time employed --

1 MR. BERNIER: Objection.

2 BY MR. JOHNSON:

3 Q -- in terms of enough work for them?

4 A They're full-time employees. There was no issue
5 with them being full-time employees.

6 Q Okay. And so I guess my question might better
7 be phrased as, was there a push to reduce full-time
8 employees such that there was concern that you might
9 lose some TVA/MMG workers?

10 A No.

11 Q What was the reason, as best as you can explain
12 it to me, that you decided you wanted to replace the
13 Day & Zimmermann tritium program workers with TVA/MMG
14 workers?

15 A It was a business, financial decision.

16 Q All right. Let's open up Document 2 then.

17 A I have Document 2 open.

18 Q Okay. And before we leave that prior topic of
19 discussion, was part of the business financial decision
20 that there would be more revenue flowing towards TVA if
21 you made the change?

22 MR. BERNIER: Objection to form. You
23 can answer.

24 THE WITNESS: No more money would come
25 to TVA.

1 BY MR. JOHNSON:

2 Q Okay. Then what -- I take it that you saw it as
3 a financial, business change for the better for TVA, or
4 you wouldn't have made the move, right?

5 A That is correct.

6 Q So how would it have been better financially and
7 business wise?

8 A It would allow me to use my in-house resources
9 to harvest the tritium, and that would be funded by
10 BOE.

11 Q Okay. Understood.

12 Let's go to Document 2 then.

13 A Okay.

14 Q And since this is an email chain, let's look at
15 the second page first -- or, wait a minute. Let's see.
16 Hang on, before you answer that. Let me check my times
17 on these emails.

18 Okay. Well, since you didn't get the email on
19 the first page, let's start with the second page. Are
20 you with me on the second page? There appears to be an
21 email from Jeff McGuire to you dated October 17 of '17.

22 A Yes.

23 Q Do you recall having received this email?

24 A Memory, no. But obviously I see I have it.

25 Q Well, do you want to read through it then to

1 make sure you're familiar with it, and then let me know
2 when you're done?

3 (Brief pause).

4 THE WITNESS: Okay. I've read it.

5 BY MR. JOHNSON:

6 Q And it refers, does it not, to an attached
7 evaluation in the first sentence?

8 A Sorry for the interruption.

9 Q Do you see that it refers to an attached
10 evaluation in the first sentence?

11 A I do.

12 Q Do you recall looking at the attached evaluation
13 when you received this?

14 A Yes.

15 Q And he is asking the question in the second
16 sentence; have you had an opportunity to discuss your
17 reports for the lesson learned we discussed in your
18 office.

19 Did you -- well, just comment on that for me if
20 you will as to whether you did have an opportunity to
21 discuss with your subordinates the lessons that Jeff
22 McGuire was bringing to your attention.

23 A Yes. I did have that, that conversation.

24 Q And with whom was that conversation?

25 A Steve Cook and some, some of the tritium folks.

1 I wouldn't know their names, but I know we had a
2 meeting in my office about this post-job critique.

3 Q All right. So let's look at Document 3 now.

4 A Okay.

5 Q And if we're looking at the same document, it
6 should say Cycle 14 Tritium Project, Assessment and
7 Evaluation. Is that what you're seeing?

8 A Yes.

9 Q And before we get off the subject of the
10 Document 2 that we were just looking at, that has been
11 previously marked as Exhibit 8.

12 All right. And do you see on the front page of
13 the Cycle 14 Tritium Project, Assessment and
14 Evaluation, that it's been previously marked as Exhibit
15 5?

16 A Yes.

17 Q And who is it showing as the author of the
18 assessment and evaluation?

19 A Goforth, Robert M.

20 Q And he was, at that time, as it says on there,
21 the Tritium Task Manager/Oversight?

22 A Yes.

23 Q And it's dated October 17th, 2017, which was the
24 date of Mr. McGuire's email to you that we just
25 discussed. Right?

1 A Correct.

2 Q So do you recall, is this evaluation that -- the
3 evaluation that he sent to you as an attachment to his
4 email?

5 A I don't recall, but it would make sense that
6 this would be the attachment.

7 Q And is this the document that you discussed with
8 your reports, as you previously mentioned Steve Cook
9 and others in MMG that were in the tritium program?

10 A I don't recall specifically having this
11 document, but I would -- this would be standard -- post
12 any project, they do a post-job critique. So this
13 could have been the document.

14 Q Do you recall sharing this document with others?

15 A I -- other than the folks in the room? Is that
16 what you're asking?

17 Q The folks in the room? Tell me what you mean by
18 folks in the room.

19 A So when we do our post-job critique, I bring in
20 the superintendent, a supervisor and, you know, the,
21 the people doing the evaluation with the post job.

22 Q So at that time I think you said Steve Cook, who
23 would have been the -- that was the superintendent.

24 Who would have been the other folks? You mentioned
25 some job titles. I may not be able to shout them back

1 at you, but do you remember who those -- maybe give me
2 the job title, and then if you can recall the person's
3 name.

4 A I don't specifically recall if I had the
5 supervisor in the room. It might just have been Steve
6 Cook, but it could have been -- but I'm speculating --
7 they might have brought the supervisor. And I think it
8 would have been -- West would be the last name. Don't
9 recall the first name.

10 Q Would that be Jason West?

11 A Jason.

12 Q And Jason West was MMG craft?

13 A My recollection, he was MMG supervisor.

14 Q Okay. Okay. Anyone else there that you can
15 specifically recall as being in, in the room -- I think
16 as you stated?

17 A The, the room would have been my office. And
18 no, I don't remember anyone else.

19 Q Did you instruct Mr. Cook -- and if he were
20 there, Mr. West, to share the evaluation with their
21 subordinates/team members?

22 A I would go with the process we do with -- the
23 post-job critique is to learn from the previous camp --
24 previous evolution. Whatever evolution that might be,
25 take that, critique it to make sure we find any and all

1 gaps in our performance, our procedures, scheduling,
2 work orders, and then go put that into the Corrective
3 Action Program to go close those gaps and, and then do
4 that with -- make sure the team understood what we were
5 doing, and make next evolution even better.

6 Q So it would be your expectation that they would
7 have followed that pattern as you just described it?

8 A That is correct.

9 MR. BERNIER: Objection to form.

10 MR. JOHNSON: Did you get his answer?

11 THE COURT REPORTER: That is correct.

12 BY MR. JOHNSON:

13 Q Turn, please, to the second page -- the page
14 right after the title page to the evaluation.

15 A I'm on the second page.

16 Q Okay. And would you read what it says under
17 summary? Just read that to yourself. Just the
18 paragraph under summary.

19 A Okay. I've read the summary.

20 Q All right. Anything that you see in the summary
21 that appears to you to be inaccurate?

22 A No, sir.

23 Q And let's go ahead and read the next section
24 then that's entitled initial work scope agreement.
25 Just read it to yourself and let me know when you're

1 done.

2 A Okay.

3 Q Anything that you read in there that appears to
4 be inaccurate?

5 A No.

6 Q If you turn to the page in the evaluation we're
7 looking at that's marked page 4 at the bottom -- and
8 we'll talk about that next.

9 A Okay. I'm on page 4.

10 Q All right. And at the bottom of that page it
11 says, does it not, Cycle 14 consolidation campaign
12 gaps.

13 A Correct.

14 Q And you referred earlier in your testimony to
15 gaps that might occur that your expectation would be
16 that they would be identified and then closed once
17 identified. Correct?

18 A Correct.

19 Q So you can quickly look at gap number one
20 there -- and my question to you -- I'll tell you in
21 advance, because it might help speed things up for you.
22 My question in advance is, would, would you agree with
23 me that this particular gap was not the responsibility
24 of, of MMG?

25 MR. BERNIER: Objection to form, but you

1 can answer.

2 BY MR. JOHNSON:

3 Q I'll ask you the question once you're done, but
4 I'm just trying to make it clear to you that this
5 appears not to involve any kind of responsibility by
6 TVA/MMG people.

7 A Correct.

8 Q All right. So let's go to gap number two. And
9 go ahead and read that one.

10 A Okay. I've read gap two.

11 Q Okay. And I want you, in considering my
12 question, to go back to your frame of mind when you
13 received this evaluation on October 17th, 2017 -- and
14 at the time did you have any disagreement with the
15 statement of this gap as explained?

16 A No.

17 Q And this gap does appear to involve MMG
18 personnel, correct?

19 A Correct.

20 Q Let's go to gap number three.

21 A I'm sorry. I coughed in the middle. Gap number
22 three?

23 Q Yes, sir.

24 A Okay. I read gap three.

25 Q And again, taking yourself back to October 17th,

1 2017, did you at the time have any problem with this
2 being identified as a gap? And by -- I shouldn't say
3 did you have any problem. Did you have any
4 disagreement that this was a gap at the time that you,
5 you took a look at this?

6 A No. No.

7 Q And this gap also concerned MMG personnel,
8 correct?

9 A That is correct.

10 Q Let's look at gap number three and --

11 MR. BERNIER: That was the three.

12 BY MR. JOHNSON:

13 Q Oh, I'm sorry.

14 All right. Let's look at four then, the next
15 one.

16 A Okay. I've read gap four.

17 Q Same question. Taking yourself back to October
18 17th of '17, did you at that time have any disagreement
19 with this as an identified gap?

20 A No.

21 Q And this, this gap involved MMG personnel,
22 correct?

23 A Correct.

24 Q Gap number five; again, I want to say that this
25 does not appear to involve TVA/MMG personnel, but if

1 you'll read it over quickly, and that's what I'll be
2 asking you, whether it appears to not involve any
3 TVA/MMG people.

4 A Okay. I've read gap number five.

5 Q And did gap number five not involve TVA/MMG
6 people?

7 A That is correct.

8 Q Same question as to gap number six on page
9 seven. It does not appear to involve TVA/MMG
10 personnel, and I'll -- that's what I'll be asking you
11 after you've read it.

12 A Okay. I've read gap number six.

13 Q Okay. And would it be correct that that does
14 not involve TVA/MMG personnel?

15 A That is correct.

16 Q Same thing with -- same thing with gap seven.
17 It doesn't appear to involve TVA/MMG personnel, but
18 I'll ask you to -- what your views are on that.

19 A Okay. I've read gap seven.

20 Q Does gap seven appear to involve TVA/MMG
21 personnel?

22 A No.

23 Q And when I say involve TVA/MMG personnel, I
24 mean, you know, the performance of TVA/MMG personnel.
25 Are we on the same page with that?

1 A Yes.

2 Q Okay. Now, take a look at gap eight.

3 A Okay. I've read gap number eight.

4 Q And taking yourself back to October 17th, 2017,
5 did you have any disagreement at the time with this
6 being identified as a gap?

7 MR. BERNIER: Hey, quick question there,
8 Jim. Are, are you saying like -- that this as written,
9 do you disagree that it was a gap, or are you asking
10 whether he disagrees with the facts that are laid out
11 here?

12 BY MR. JOHNSON:

13 Q Well, either one, because I think the second
14 thing that you said is, you know, incorporated within
15 the first one. So I think the question is fair. It's
16 just did you agree at the time that you looked at this
17 in October 2017 that this was identifying a, a gap that
18 occurred?

19 A I agree it identified the gap. Yes.

20 Q And this one did involve TVA/MMG personnel?

21 A That is correct.

22 Q Okay. So we're now up to gap nine.

23 A Okay. I've read gap nine.

24 Q Taking yourself back to October 17th, 2017, did
25 you have any disagreement that this was identifying a

1 gap that occurred?

2 A No disagreement.

3 Q And this involved TVA/MMG personnel. Correct?

4 A Correct.

5 Q If you look on page nine -- and I'm sure you've
6 read this, it says in a note that, that this was
7 captured on a video recording. Do you see that?

8 A Yes.

9 Q Do you recall having seen that video yourself?

10 A I do.

11 Q And do you recall having any discussion with
12 Mr. McGuire about that video?

13 A I do not. I remember discussing it with -- I
14 would think Steve Cook, but I don't know who I really
15 talked to it about.

16 Q Can you tell me about your discussion with Steve
17 Cook? You know, sort of -- you're not going to
18 remember exact words this, this far, but just the sense
19 of what you and Steve exchanged as communications in
20 your discussion with him.

21 A Yeah. They -- it does kind of trigger some
22 memory, and I know I was not satisfied with the
23 performance.

24 Q Read gap 10.

25 All right. Well, let me ask you a little bit

1 more about the video. Was -- at your direction or
2 Steve Cook's direction -- the video shared more
3 generally than just between you and he?

4 MR. BERNIER: Objection to form.

5 THE WITNESS: I would not, you know,
6 restrict that we shared any of this information.

7 BY MR. JOHNSON:

8 Q Did you receive any contact from any of your
9 superiors about this video?

10 A I don't recall getting any communications, but I
11 know I would have reported this to my boss on something
12 this significant.

13 Q And your boss at the time was again who?

14 A Sean Connors.

15 Q And Sean Connors was the plant manager?

16 A Yes.

17 Q And I think on the org chart he reported
18 directly to Paul Simmons?

19 A Correct.

20 Q Were you aware from any source that Paul Simmons
21 had any comments or views expressed about the video?

22 A I don't recall, but there would be a line with,
23 with Paul, since he's a site VP, that he would have
24 concerns.

25 Q So you think the likelihood is high that the

1 plant manager would have shared this incident with
2 Mr. Simmons?

3 MR. BERNIER: Objection to form.

4 THE WITNESS: I know our protocol for
5 reporting issues in the plant. I would elevate it to
6 Sean Connors and the rest of the leadership team to
7 something of -- that would require a prompt
8 investigation.

9 BY MR. JOHNSON:

10 Q And was the prompt investigation requirement due
11 to the safety, the nuclear safety implications of the
12 event?

13 MR. BERNIER: Objection to form.

14 MS. LINDGREN: Objection to form.

15 THE WITNESS: I'm going off a lot of
16 like memory. I'm going off a lot of how our TVA
17 policies and procedures were. This would have, in my
18 mind, triggered a prompt investigation, which would
19 have been a notification.

20 BY MR. JOHNSON:

21 Q A notification -- explain to me what you mean by
22 notification.

23 A Notify the leadership team of an event.

24 Q And is the reason for the prompt investigation
25 and the notification to leadership of the event that it

1 involved safety?

2 MR. BERNIER: Objection to form.

3 THE WITNESS: Involved a human -- it
4 would involve a human performance issue, which would
5 have been a reason to have a prompt investigation to
6 understand how we got there before we restarted work.

7 BY MR. JOHNSON:

8 Q And the human performance deficiency was a
9 potential safety hazard -- that's my question. Would
10 you agree with that?

11 MR. BERNIER: Objection to form.

12 MS. LINDGREN: -- to form.

13 THE WITNESS: The -- a safety -- no one
14 would have got -- my concern would have been around
15 damaging this tritium component.

16 BY MR. JOHNSON:

17 Q And if you damage a tritium component, there is
18 the potential for radiation release that's dangerous to
19 human health, is there not?

20 MR. BERNIER: Objection to form.

21 MS. LINDGREN: Objection to form.

22 THE WITNESS: The tritium -- not to my
23 knowledge. That would get -- hurt personnel with
24 radiation.

25 BY MR. JOHNSON:

1 Q Did you --

2 A Because it's inside of a spent fuel pool that's
3 feet under water -- which is full of radioactive
4 water -- and that's what would have been released.

5 Q Did you ask Mr. Goforth about what would occur
6 if a TP -- what could occur if a TPBAR were damaged?

7 A I don't recall.

8 Q Did you talk to Mr. McGuire about that in any
9 way?

10 A I don't recall.

11 Q Were you aware at the time that the TPBARs --
12 the tritium within the TPBARs is under high pressure?

13 A I did know they're under pressure. I didn't
14 know the exact pressure.

15 Q Were you aware at the time that because of the
16 pressure, a damaged TPBAR -- a release of pressure from
17 a damaged TPBAR could cause the TPBAR to eject out of
18 the water?

19 MR. BERNIER: Objection to form.

20 MS. LINDGREN: Objection to form.

21 THE WITNESS: No, I was not aware.

22 BY MR. JOHNSON:

23 Q All right. Let's look at gap 10. And again,
24 just to forecast for you, it, it appears that this does
25 not involve TVA/MMG people, and I'll -- that's what

1 I'll be asking you about.

2 A Okay. I've read gap 10.

3 Q Would you agree that gap 10 does not appear to
4 in -- involve any performance by TVA/MMG people?

5 A That is correct.

6 Q Gap 11. We're coming into the home stretch
7 here. Gap 11. Take a look at that one.

8 A Okay. I've read gap 11.

9 Q If you look under actions within gap 11, it
10 says, does it not (as read): This was discussed with
11 the maintenance manager who will inform tritium program
12 management of any actions. It says that, right?

13 A That is correct.

14 Q So who would be the maintenance manager as
15 identified there?

16 A Steve Cook or me. I don't -- because I'm the
17 maintenance director. There might have been a
18 miscommunication with maintenance, thinking I'm the
19 maintenance manager.

20 Q Sure. Well, did you -- do you recall having a
21 conversation with either Mr...

22 Well, let me -- do you recall having a
23 conversation with Mr. McGuire about this particular gap
24 prior to -- as this says, prior to receiving this
25 evaluation?

1 A I don't specifically recall having that
2 conversation.

3 Q This gap does involve TVA/MMG personnel, would
4 you agree?

5 A I agree.

6 Q Gap 12. Let's take a look at that one.

7 A Okay. I've read gap 12.

8 Q Would you agree with me that that involves --
9 well, looks like both TVA/MMG and Day & Zimmermann
10 personnel.

11 A That is correct.

12 Q And, finally, gap 13.

13 A Okay. I've read gap 13.

14 Q Would you agree that that involves TVA/MMG
15 people?

16 A Yes.

17 Q And I think I forgot to ask with respect to 12
18 and 13. At the time that you looked at these on
19 October 17th, 2017, did you have any disagreement with
20 these as identified gaps?

21 A No.

22 Q So let's look at the conclusion that's written
23 there. Take, take a look at that, and read that, the
24 conclusion on page 11.

25 A Okay. I've read the conclusions.

1 Q And for cycle -- the remainder of cycle 14 and
2 for cycle 15, TVA/MMG people did continue to work on
3 tritium program activities as they had in cycle 14 up
4 to this point. Correct?

5 A That's correct.

6 Q So evidently, since it says the following needs
7 to be addressed before MMG participates in
8 consolidation with TPBAR shipping activities, these --
9 these things were adequately addressed so that they
10 continued to, to work in the program. Correct?

11 A I would say since we're a learning organization,
12 we took action on these gaps and they continued to, to
13 have these critiques afterwards then improve our
14 performance. So I don't -- I'm not thinking we can fix
15 everything all at once; but from my recollection, the
16 campaigns did continue to improve.

17 Q When you transferred your job duties over to
18 Tony White in April of 2018 as you previously
19 testified, did you have some turnover -- let's call
20 them turnover sessions with Mr. White to bring him up
21 to speed on the job?

22 A I did.

23 Q Do you recall in those conversations with him
24 whether you discussed with him this evaluation and the
25 ongoing progress to improve the program?

1 A I don't recall discussing this evaluation, but I
2 did -- I do recall talking about the tritium campaigns
3 and their importance.

4 Q Did you talk to Mr. White at all about
5 Mr. Goforth having written the evaluation?

6 A No.

7 Q Did you talk to Mr. Go -- Mr. White about
8 Mr. Goforth at all during that time?

9 A Not that I recall. No.

10 MR. JOHNSON: Let's see. We've been
11 going for a bit over an hour. Would you-all like to
12 take a break?

13 MR. BERNIER: I would.

14 MR. JOHNSON: All right.

15 MS. LINDGREN: Yeah, that would be
16 great.

17 MR. JOHNSON: Let's take a five minute
18 break, okay? Five minutes enough?

19 MR. BERNIER: Sounds good.

20 MS. LINDGREN: Yes, that's good.

21 MR. JOHNSON: Okay.

22 (Brief recess).

23 BY MR. JOHNSON:

24 Q All right, Mr. James. We're back from work, and
25 we're ready to open document number four.

1 due date, but there at least needs to be a plan in
2 motion to close those gaps by that due date.

3 A That is correct.

4 Q Do you recall assigning that CAP to anyone
5 within your organization to complete?

6 A I don't recall assigning this to anyone.

7 Q Do you recall anyone to -- reporting to you
8 about addressing these issues in a CAP?

9 A I don't recall, no. I can talk to TVA process
10 and procedure, where our -- the Corrective Action
11 Program has different meanings which assign the CRs to
12 appropriate levels in the organization.

13 Q So it would be CAP program people that would be
14 identifying people in the organization to assign
15 responsibilities for addressing gaps?

16 A Correct. It would be a committee.

17 Q And do you recall anything about a committee
18 assuming the duties you just described with regard to
19 this CR?

20 A I do not.

21 Q When you did turnover with Tony White, did the
22 subject of this CR come up?

23 A It did not, to my knowledge.

24 Q Did this CR come up at any time subsequent to
25 your turnover with Tony White up to the termination of

1 Mr. Goforth?

2 A Not to my memory, no.

3 Q Okay. Let's open doc -- document five.

4 A Okay.

5 Q All right. Does it show that it was previously
6 marked Exhibit 38 on the first page?

7 A It does.

8 Q And this may relate back to your earlier
9 testimony, but it may help prompt your memory somewhat.
10 I want you to take a look at the email about halfway
11 down the page which appears to be an email from John
12 Reeves to you dated November 20, 2018.

13 Are you with me there?

14 A Yes.

15 Q And it says, does it not, phone -- per phone
16 con, I would like to get this done today. And it's
17 electronically signed by John Reeves to you, correct?

18 A Correct.

19 Q And you can take some time if you want and look
20 at this entire document, because my question to you is
21 going to be what is he referring to about getting done
22 today? That's going to be my question. But just take
23 a look at the whole thing, and that may help you to
24 respond.

25 A It appears he wants to get the Executive Review

1 Board completed.

2 Q And by saying he wants to get the Executive
3 Review Board completed, you mean the actual review of
4 the Executive Review Board of Mr. Goforth's
5 termination?

6 MS. LINDGREN: Object to form.

7 THE WITNESS: So the Executive Review
8 Board is done after an adverse action is taken to make
9 sure that we mitigate the impact of that adverse
10 action. We look at all facets of that before it is
11 taken.

12 BY MR. JOHNSON:

13 Q Okay. And my, my question was, and maybe I
14 could have made this more clearly, but when I asked you
15 what it was he wanted to get done today, you said the
16 ERB. And so my question was, do you mean the ERB
17 review of Mr. Goforth's termination? Is that what he's
18 referring to?

19 A That's what he appears to, to refer to, based on
20 the email strings.

21 Q Okay. And so then above there, there's an email
22 that you were not sent, but it says there from John
23 Reeves to a number of folks. (As read): FYI. I
24 called Jesse and briefed Hickman. DZ does not want to
25 delay the ERB.

1 BY MR. JOHNSON:

2 Q And just -- you can just read the letter. To
3 begin with, there's a fairly long attachment behind
4 it -- or enclosure with it. But just for immediate
5 purposes you can just read the letter.

6 A Okay. I've read the -- just the letter, not the
7 attachments.

8 Q Do you recall having seen this letter before?

9 A Not this letter specifically, no.

10 Q Okay. Do you recall any communications that you
11 have received that references the matters raised in the
12 letter?

13 A I recall us having to -- us, TVA Nuclear, having
14 to resolve this issue from the NRC.

15 Q And with whom did you discuss it in order to
16 come to a resolution?

17 A This -- this was not mine to resolve. This is
18 for Joe Shea and his team to resolve.

19 Q Are you aware of what resolution was arrived at
20 by Joe Shea and his team?

21 A Numerous revisions to our policies and training.

22 Q Was any change made to your policies that would
23 require ERBs for the denial of an unauthorized access
24 authorization -- or unescorted access authorization?

25 MR. BERNIER: Objection to form.

1 conformity order that began the ERB process, was it
2 not?

3 MR. BERNIER: Objection to form.

4 THE WITNESS: I don't know the whole
5 history. I -- excuse me. I believe the EA had -- 09
6 means that was issued in 2009, so -- but I do know we
7 were under conformity action for TVA, and we were
8 have -- we were -- still not have that resolved.

9 BY MR. JOHNSON:

10 Q All right. So let's look down immediately
11 beneath that failure to adequately implement
12 requirements of the '09 order and read where it begins
13 with the words "the inspector," please. You can just
14 read it to yourself, that sentence there -- or those
15 couple sentences there beginning with the inspector
16 identified and ending with denial of access.

17 A Okay.

18 Q So having read that, does it appear that the NRC
19 was saying that you need to have an Executive Review
20 Board to review additional adverse actions including
21 denial of access?

22 MR. BERNIER: Objection to form.

23 THE WITNESS: That is what the inspector
24 identified. That is correct.

25 BY MR. JOHNSON:

1 Q Okay. We're done with that. Thank you.

2 So, switching gears. Were you aware in your
3 role in 2017 as the maintenance director that
4 Mr. Goforth applied for a job in the fall of 2017 as a
5 supervisor within the maintenance department?

6 A At the time, no. Based on all these reviews
7 I've been doing with -- where I talked about, yes.

8 Q Okay. And when you say reviews -- and again, I
9 don't want you to say anything that a lawyer told you,
10 but tell me what you meant by reviews including any --
11 identifying any that may have been with lawyers.

12 MR. BERNIER: Let, let -- hold on one
13 second, Jesse. And this is consistent with what Jim
14 just said, but I want to chime in there.

15 And to the extent your answer would
16 disclose anything from communications with attorneys,
17 those are attorney/client communications, and I'd
18 instruct you not to answer on those. If we need to
19 talk, we can. But answer the question to the best you
20 can without disclosing those communications.

21 BY MR. JOHNSON:

22 Q Okay. With that understood, let's review a
23 little bit so I can repose the, the question. When I
24 asked whether you were aware that Mr. Goforth had
25 applied for a job in the maintenance department in

1 2017, you said you became aware in various reviews. So
2 what I'm trying to understand is, more specifically
3 what reviews you're talking about.

4 A Okay. Let me -- post selection of supervisor, I
5 did have a conversation with OGC, and I've subsequently
6 had a sworn statement with the NRC. Those -- that's
7 what I mean as reviews.

8 Q Okay. And would the OGC counsel that you talked
9 to have been Johnny Slater?

10 A I don't recall.

11 Q Was the subject that the OGC counsel you talked
12 to -- and I just want to know the subject, not any
13 advice; was the subject matter a complaint that
14 Mr. Goforth had made with -- about his job, not getting
15 that promotion?

16 A Yes.

17 Q Do you recall whether the complaint was with the
18 United States Office of Special Counsel?

19 A I do not.

20 Q Do you recall whether the complaint evolved into
21 a MSPB complaint?

22 MR. BERNIER: Okay. I'm going to object
23 here, Jim. I think the more you're drilling down here,
24 the more you're getting into the content of
25 communications. And to the extent you're getting into

1 the content of the communications, I'm going to
2 instruct my witness not to answer.

3 MR. JOHNSON: Okay. Well, all -- I hope
4 we're on the same page on this. All I'm trying to get
5 at is the subject of the communication which -- you
6 know, in a privilege log, what do we always have to
7 put? We have to put who the communication was from and
8 to, the approximate time as best as can be determined
9 of the communication, and what the subject of the
10 communication was. And so all I'm asking for is the
11 subject of the communication. Was the subject of the
12 communication an OSC or MSPB complaint.

13 MR. BERNIER: Well, one suggestion --
14 and I think it may short circuit, you know, rather than
15 getting into the subject of the communication; maybe
16 you can just ask him, you know, whether he knew or had
17 knowledge of those things that you're, you're
18 identifying, and then I think that would steer clear of
19 the communications.

20 BY MR. JOHNSON:

21 Q Have you ever heard of the MSPB?

22 A No. I don't recognize the acronym. If you --
23 what does it stand for, I might --

24 Q I wish I could tell you.

25 MR. BERNIER: I'll, I'll help here.

1 It's Merit System Protection Board.

2 BY MR. JOHNSON:

3 Q They're -- take it from the authority who's
4 probably defended many. The Merit System Protection
5 Board -- and that is a civil service job protection
6 entity.

7 Do you recall whether there was a complaint by
8 Mr. Goforth that involved his not getting the job that
9 was other than any complaint with the NRC?

10 A I don't recall that.

11 Q And so can you give me the approximate time
12 sequence when these reviews that you're talking about
13 occurred? And I'll narrow that down for you.

14 Did these reviews you're talking about occur
15 prior to Mr. Goforth's termination?

16 A Yes.

17 Q Can you give us an approximation from the time
18 of Mr. Goforth's termination -- which was the end of
19 November 2018 -- the amount of time that these reviews
20 occurred before that termination? You know, was it a
21 month before? Two months before? Just your best
22 estimate of when those reviews occurred.

23 MS. LINDGREN: Objection to form.

24 THE WITNESS: So I misspoke. The NRC
25 was after the termination. The OGC was after the

1 non-selection prior to termination.

2 BY MR. JOHNSON:

3 Q Okay. And so the OGC reviews that you had with
4 the OGC, please give me an estimate of when those were
5 in relation to Mr. Goforth's termination in
6 November 2018.

7 A You know, I -- I'd be spec -- I don't -- don't
8 really remember that.

9 Q Were they before the -- were they before the
10 termination?

11 A Yes.

12 Q Okay. Did you speak with anyone else at either
13 TVA or Day & Zimmermann about their having been the
14 subject of these reviews -- about whether they had
15 similar reviews?

16 A No, I would -- have not.

17 Q Did you have any discussion with Mr. White --
18 that is, Tony White, about whether he had been named in
19 any of these complaints?

20 A I have -- no. No, I have not.

21 Q Any discussions with Tony White about these
22 complaints of any sort?

23 A No.

24 Q Any, any discussions with DeWarren Washington
25 about these complaints of any sort?

1 A No. No. The complaints I'm referring to --
2 I'll answer this to clarify is the, the OGC and the
3 NRC.

4 Q Right. Well, are there any other complaints
5 that you did have discussions with DeWarren Washington?

6 A No.

7 Q Any other --

8 A I'm clarifying my no, because didn't want to get
9 too, too loose with no.

10 Q Sure.

11 MR. BERNIER: I'd like to clarify one
12 thing, just so it doesn't sound like there's a new
13 complaint regarding OGC.

14 Jesse, do you mean the non-selection
15 case you referred to earlier when you said OGC?

16 THE WITNESS: That is correct.

17 Thank you.

18 BY MR. JOHNSON:

19 Q Okay. Well, were there any other complaints
20 than that that you discussed with DeWarren Washington
21 regarding Mr. Goforth?

22 A No.

23 Q And let me just more generalize this. That may
24 be helpful. I'm going to ask you about a series of
25 people and whether you had any discussions of any

1 nature with these people about Mr. Goforth. And I
2 would like for you to really, you know, think about
3 each of these names before you respond. Really probe
4 yourself. I know this took a while -- this occurred a
5 while back, but --

6 So my question is -- and this will be my
7 question for all these folks. Do you have any
8 discussions with these people about Mr. Goforth at any
9 time in 2017 or 2018?

10 And the first one is Tony White.

11 A Not to my knowledge. No.

12 Q Any discussions about Mr. Goforth in 2017/2018
13 with Paul Simmons?

14 A The only thing that's -- that I'm hesitating for
15 is it would be something that I would say Hey, I have
16 an issue with OGC that I have to go resolve. I don't
17 know if I would specifically say what it was, but I
18 would probably elevate that to Paul Simmons.

19 Q And did -- do you recall anything Paul Simmons
20 said in response to your elevation of that to him?

21 A No. I don't remember the conversation, if I had
22 it, but Paul was never big into those details.

23 Q All right. Same question. What communications
24 if any regarding Mr. Goforth did you have in 2017 and
25 2018 with Meschelle Augustin?

1 A None that I recall.

2 Q What conversations about Mr. Goforth can you
3 recall that you had in 2017 or 2018 with DeWarren
4 Washington?

5 A None that I can recall.

6 Q What conversations did you have -- other than
7 you've already described to me in 2017, 2018 with
8 Mr. Goforth -- about Mr. Goforth with John Reeves?

9 A Other than the email and with the ERB, I don't
10 recall any.

11 Q What conversations have you had about
12 Mr. Goforth that took place in 2017 or 2018 with Dusty
13 Rhodes?

14 A None that I recall.

15 Q Do you recall Greg Whitehorn making a complaint
16 about his performance evaluations by Dusty Rhodes in
17 2018?

18 A That -- yes.

19 Q What do you recall about that?

20 A Just that there was a complaint about the
21 performance evaluation.

22 Q What if anything did Mr. Rhodes tell you about
23 the complaint?

24 A That Greg was -- did not accept the performance
25 appraisal that -- the feedback on it.

1 BY MR. JOHNSON:

2 Q All right. So did you have any conversations
3 with Mr. Hickman?

4 A I did not.

5 Q Any communications with Mr. Hickman?

6 A I do communicate with Mr. Hickman, but I
7 don't -- did not communicate about Goforth.

8 Q Okay. Did Mr. Reeves tell you anything about
9 what Mr. Hickman had said about Goforth?

10 MR. BERNIER: Objection to form.

11 THE WITNESS: Did Bill Reeves -- or John
12 Reeves -- Bill Reeves, that was a football coach, I
13 think.

14 Did John Reeves talk to me about his
15 conversation with Bill Hickman concerning Goforth? Was
16 that the question?

17 BY MR. JOHNSON:

18 Q Yes.

19 A He did not.

20 Q Do you recall whether one of the TVA attorneys
21 that you talked to about the non-selection was Ryan
22 Dreke?

23 I may not be saying his name right.

24 A I don't recall who I talked to about the
25 non-selection.

1 MR. JOHNSON: Okay. All right. That
2 may be all the questions I have. Let me just take a
3 few minutes here. Do you-all want to take five, and
4 then I'll likely be done?

5 MR. BERNIER: Sounds good.

6 MS. LINDGREN: Sounds good.

7 (Brief recess).

8 MR. JOHNSON: Are we ready to proceed?

9 MR. BERNIER: We are.

10 MR. JOHNSON: Mr. James, I want to thank
11 you very much for your attendance today, and I
12 appreciate your cooperation in answering the questions,
13 and I don't have any further questions for you, but the
14 other lawyers may.

15 MR. BERNIER: I've got a few follow-up.
16 But Hannah, do you have any before I go?

17 MS. LINDGREN: No. Nothing from Day &
18 Zimmermann.

19 EXAMINATION

20 BY MR. BERNIER:

21 Q Okay. Mr. James, thank you for your time. This
22 will be very quick.

23 Earlier on in, in reference to the tritium
24 consolidation report, you likened it to a post-job
25 critique. Did I hear that correctly?

1 A Yes, sir.

2 Q Is that kind of post-job critique something that
3 you typically do at TVA, or was it really unique?

4 A Stand by. I've got a lot of door slamming going
5 on here. Let me get my door closed here. I forgot to
6 close it.

7 (Brief pause).

8 MR. JOHNSON: I'm going to object to
9 form on that question, Mike.

10 MR. BERNIER: Sure.

11 THE WITNESS: Okay. I'm back. If you
12 can redo the question.

13 BY MR. BERNIER:

14 Q I can. That kind of post-job critique that you
15 described earlier, is that a standard occurrence at
16 TVA, or is that something that you would never do?

17 A No. Those are standard for any major projects
18 including tritium, refueling outages, system outage
19 windows. We, we definitely want to be critical of our
20 performance to improve for next, next time we perform.

21 Q And I think you just answered my question, but
22 I'll ask it nonetheless. What's the purpose of doing
23 such a critique?

24 A To look for any gaps in performance, procedures,
25 scheduling, budgeting. To really identify those so

1 that next time we lay a project out, a similar project,
2 we have better performance.

3 Q Were you mad about any of the gaps that were
4 raised in the consolidation report you were shown
5 earlier?

6 A No. I was thankful.

7 Q What do you mean by that?

8 A I thought that report was a very detailed
9 report, very pinpointed gaps, to allow us to take
10 custody and the maintenance department to take concrete
11 actions to go close those gaps for next performance.

12 Q So did you welcome it?

13 A I did welcome it.

14 MR. JOHNSON: Just an objection to form.

15 THE WITNESS: Yes, I did. I welcome all
16 critiques. That's our -- that's the nuclear culture.
17 We are very self critical. And we -- that's how we
18 always want to perform. And I will say the quality of
19 that one was better than I'd seen in my own department,
20 so I was very happy with that critique.

21 BY MR. BERNIER:

22 Q Okay. Changing subjects here. You were asked
23 about when you learned about Mr. Goforth's
24 non-selection case. Did you learn about that, you
25 know, close to Mr. Goforth's termination, or was it

1 much earlier in time?

2 A It was much earlier in time.

3 Q Were you in your previous job when you learned
4 about it?

5 A Yes.

6 MR. BERNIER: Okay. All right. I have
7 no further questions. Thank you, Mr. James.

8 RE-EXAMINATION

9 BY MR. JOHNSON:

10 Q Mr. James, following up on that question. Is it
11 unusual to get an evaluation of the length and detail
12 of the one that Mr. Goforth did that we've been
13 discussing?

14 A No.

15 Q Is it unusual to get one that is offered --
16 authored by a particular person and is a standalone
17 document of the length that that one was?

18 A No.

19 MR. JOHNSON: All right. That's all the
20 questions I have.

21 MR. BERNIER: All right. Thank you,
22 Mr. James. I think you're released. You're free to go
23 about your day. Thank you very much for your time.

24 THE WITNESS: Thanks everyone. Have a
25 great weekend.

1 MR. JOHNSON: Okay. We'll see you.

2 (Deposition concluded at 12:34 p.m.)

3 - - -

4 REPORTER'S CERTIFICATE

5 STATE OF TENNESSEE)

6 COUNTY OF HAMILTON)

7 I, Beth Ann Pell, Licensed Court
8 Reporter, do hereby certify that I reported in machine
9 shorthand the deposition of JESSE JAMES, called as a
10 witness in the above-styled cause; that the said
11 witness was duly sworn by me; that the foregoing pages,
12 numbered from 1 to 71 inclusive, were typed under my
13 personal supervision and constitutes a true record of
14 said deposition.

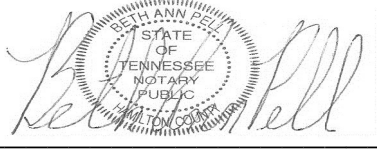
15 I further certify that I am not an
16 attorney or counsel of any of the parties, nor a
17 relative or employee of any attorney or counsel
18 connected with the action, nor financially interested
19 in the outcome of the action.

20 Witness my hand in the City of
21 Chattanooga, County of Hamilton, State of Tennessee,
22 this 25th day of October,

23

24

25


Beth Ann Pell, LCR# 267
Licensed Court Reporter
Expiration: 06/30/2022

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TENNESSEE
3 AT CHATTANOOGA

4 ROBERT M. GOFORTH,
5 Plaintiff,

6 vs.

Case No: 1:20-cv-254

7 TENNESSEE VALLEY AUTHORITY
8 and DAY & ZIMMERMANN NPS,
9 INC.

10 Defendants.

11 Chattanooga, Tennessee
12 September 16, 2021

13 DEPOSITION OF JOHN M. RHODES

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1 Counsel?

2 A. I'm sure he did. Mr. Goforth was very
3 detailed in those discussions, and mentioned it on
4 more than one occasion, but he -- he may have told me
5 that. I don't remember those specific words, but,
6 yes, he did. He did disclose that he had a pending
7 litigation against, I'm assuming, TVA.

8 Q. Did he also mention the letters -- it's
9 called MSPB. Did he mention the MSPB?

10 A. Not at that time, no.

11 Q. Do you know what the MSPB is?

12 A. No.

13 Q. Okay. So did you discuss what Mr. Goforth
14 told you about his pending litigation with -- and let
15 me just break it down to various people for you. Did
16 you discuss that in any way with Tony White?

17 A. I don't -- I don't remember. I mean, I -- I
18 don't know if there could have been discussions, you
19 know, just unrelated, but I don't remember
20 specifically. I definitely didn't go discuss
21 anything with somebody related to Mr. Goforth's
22 pending -- what do you call it, litigation?

23 Q. Yes, sir.

24 A. Litigation, yeah.

25 Q. I know you didn't initiate anything, but do

1 you recall any words that Tony White may have spoken
2 about Mr. Goforth having pending litigation?

3 A. No, not that I can recall.

4 Q. Do you recall Mr. White making any negative
5 remarks about Mr. Goforth?

6 A. No.

7 Q. All right. Let me ask the same questions
8 about Jesse James. Do you recall ever discussing
9 Mr. Goforth's pending litigation with Mr. James?

10 A. No.

11 Q. Do you recall anything negative that
12 Mr. James said about Mr. Goforth regarding the
13 litigation or any other matter?

14 A. No.

15 Q. Same questions about Paul Simmons. I know
16 he's kind of above everybody's rank here, but did you
17 ever hear Mr. Simmons making any negative remarks
18 about Mr. Goforth?

19 A. No.

20 Q. Do you recall that Mr. Goforth applied for a
21 job with TVA in 2000 -- the range of latter part of
22 2017, 2018, for which -- for a job within your
23 department?

24 A. Yes. If that's the -- again, the time
25 frame -- if that's the position when he applied for

1 the page where it says "Number 9 gap."

2 A. Okay.

3 Q. If you're with me, just go ahead and read
4 what's written under Number 9 gap, and it goes on to
5 the next page. Just go ahead and read that, and then
6 let me know when you're done.

7 A. Oh, not out loud. You want me to just
8 read --

9 Q. Yes, sir. Just read it to yourself.

10 A. Okay. I was like, okay.

11 Q. And I'm not going to quiz you on any details
12 on that. Just general familiarity.

13 A. Okay. I've read it.

14 Q. Do you recall Mr. James discussing this
15 particular gap, as it's being called, with you?

16 A. Yes, I do remember discussing issues when we
17 had tritium campaign issues because they were a part
18 of the maintenance department with the mechanical
19 maintenance group. I don't remember the specific day
20 when we would have discussed this one, but...

21 Q. Did you ever see the video that was made of
22 this event that it's referring to?

23 A. I had seen a video. I do remember one video
24 with the tritium campaign, but I don't know if it was
25 this one.

1 Q. Well, the video depicted a TPBAR assembly,
2 with all the TPBARs on it, dropping and bending a
3 thimble plug on the assembly. Does that help you to
4 remember whether you saw that video?

5 MR. MEALOR: Object to form.

6 THE WITNESS: I believe the video that
7 I -- the only video I really remember seeing was
8 whenever they damaged some rigging. I remember
9 seeing that video floating around.

10 BY MR. JOHNSON:

11 Q. Okay. Well, do you recall this assessment
12 and evaluation being generally critical of the
13 performance of the TVA MMG workers who got assigned
14 to do tritium that hadn't done it before?

15 A. I haven't read the assessment, and I can't
16 tell you whether it mainly points to that.

17 Q. If we go on through the deposition I'm going
18 to be referring to this -- this particular document
19 as Mr. Goforth's evaluation, just as kind of a
20 shorthand to that in the future, but if the way I
21 refer to is ever confusing to you in my future
22 questions, let me know, but I'll call --

23 A. Okay.

24 Q. Thank you.

25 A. And apologize if I'm yawning. I'm on night

REPORTER'S CERTIFICATE

STATE OF TENNESSEE

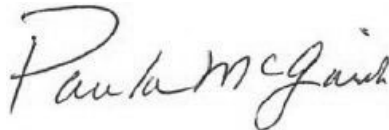
COUNTY OF HAMILTON

I, PAULA McGUIRK, RPR, LCR#789, CCR-GA, in and for the State of Tennessee, do hereby certify that the deposition of JOHN M. RHODES was reported by me, and that the foregoing 42 pages of the transcript is a true and accurate record to the best of my knowledge, skills and ability.

I further certify that I am not related to nor an employee of counsel or any of the parties to the action, nor am I in any way financially interested in the outcome of this case.

I further certify that I am duly licensed by the Tennessee Board of Court Reporting, as evidenced by the LCR number and expiration date following my name below.

In witness whereof, I have hereunto set my hand this 5th day of October, 2021.



PAULA McGUIRK, RPR, LCR, CCR-GA
LCR#789 - Expires: 6/30/2022

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

ROBERT M. GOFORTH,

Plaintiff,

vs.

TENNESSEE VALLEY AUTHORITY
and DAY & ZIMMERMANN NPS,
INC.,

Defendants.

Case No.: 1:20-cv-254

Chattanooga, Tennessee
August 17, 2021

DEPOSITION OF WALTER LEE SANDERS

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1 A If they lost access for that and if it was -- say
2 it was an instance of something with the NRC or -- any
3 reason at all, they have to go through the process of
4 regaining their access. And that's, that's done. I've
5 seen it done. I've seen people lose access for cause and
6 go through some kind of rehabilitation. Typically that's
7 more often with drugs or alcohol -- alcohol really
8 primarily, and then you can regain access. But if you do
9 not have access to the plant, you can't work there.

10 Q You can't work at the plant or -- well, tell me
11 about this. And this maybe answers the question.
12 Explain the PADS system to us.

13 A So, when you're in the system you either have a
14 green light or a red light for access, you know. So if
15 you're at Watts Bar, you're in the PADS system, and you
16 have all your training up to date, you have -- there's
17 nothing on your record that would prevent it.

18 If you go into -- if you go and you're fired for
19 cause, then they would update PADS to say -- they would
20 say terminated -- and I'm not exactly sure on the
21 verbiage, but essentially what would happen is there
22 would be something in there outlining that you lost
23 access at Watts Bar. I don't know that it would normally
24 go in there and say -- I'm almost certain it wouldn't
25 give a full event of it, you know, the description. It

1 would just say you lost access, most likely.

2 Q Well, so you don't know for sure whether it says
3 lost access for cause or lost access for -- in
4 Mr. Goforth's case, allegedly falsifying a document?
5 Does it say that in the PADS?

6 A I don't know exactly what it says, but I think, I
7 think that it does have some description of -- if you
8 falsify documents -- which is clearly a violation in
9 every place -- that you would be locked out.

10 Q Okay.

11 A I believe that would be the case.

12 Q And who has access to PADS?

13 A Just the site utilities, and maybe INPO.

14 Q So basically, anyone who's running a nuclear power
15 plant in the United States would be able to look and see
16 that a person's clearance was revoked. And I guess the
17 reason for that is so that before making any kind of
18 hiring decisions, they would know that?

19 MR. MEALOR: Objection.

20 A So when you say "anybody," it would be a very,
21 very small group of people. There's -- probably on each
22 site there's probably two to three people that have
23 access into PADS that can look at all of that.

24 And so -- yeah. And so the reason for that is you
25 don't want somebody who has broken the rules or -- and

1 got terminated for cause that would be in -- something
2 that would prevent them from having access at another
3 site to come to your site and all of a sudden gain
4 access. So, if their behavior was inappropriate
5 someplace else, you would know.

6 Now, you can go through and they can go and try to
7 get access at a new site, and if that new site wanted
8 that person because they felt that they were valuable
9 enough, then they could go through the process of trying
10 to reestablish plant access in some cases. In some cases
11 the answer is always no.

12 So if you violate some rules with the NRC,
13 specifically if you fail a drug test, there are periods
14 of time where you are locked out from coming back into
15 nuclear power. And those vary depending on the different
16 circumstances of what you may've...

17 Q Let me just be clear about your answer. My
18 question was really does every nuclear power plant site
19 have access to PADS, even though, as you've stated, it
20 would be a very small number of persons at each site, but
21 it's available to every site that's running a nuclear
22 power plant?

23 MR. MEALOR: Objection.

24 A So, every utility that has a plant. I don't
25 know -- I can't speak to every site. I would imagine

1 every site. But every utility has an organization that
2 oversees access to their facilities.

3 Q Okay. So, your answer is PADS would be available
4 to every utility that operates a nuclear power plant?

5 A In the United States.

6 Q In the United States.

7 A That's correct.

8 Q Got it.

9 So, let me show you this. And it's Document 18.
10 I think this is just showing some of what you have
11 already told us.

12 This is as of June of 2017. Is that within the
13 framework of time that you came to Watts Bar?

14 A Yes.

15 Q So would this be accurate, what it states there,
16 that Paul Simmons was the VP for Watts Bar Nuclear Plant,
17 which you've already testified to, but those folks above
18 that, two of those positions were vacant and one was held
19 by Jennifer Affholder? But she's only --

20 A She is executive assistant.

21 Q Right. So, did somebody eventually get that job
22 as senior vice president of operations?

23 A Oh, yeah. Yes.

24 Q Who was it?

25 A Well -- so this was '17. So, I think -- I

1 wouldn't be able to answer for sure. I don't remember
2 who took the job before or after this.

3 Q That's fine. We don't need to probe any further
4 on that.

5 Look at the second page of it then.

6 A Okay.

7 Q So, that page shows you, right?

8 A It does.

9 Q And this is as of November 2, 2018. And it shows
10 you as director of plant support. And that's, according
11 to your testimony, I think the only position that you
12 held there at Watts Bar when you came over?

13 A Other than when I was there from -- I was in a
14 corporate role. But yes, this is my only direct spot on
15 the Watts Bar org chart.

16 Q Okay. And you've described to us what your duties
17 were in that role?

18 A Yes.

19 Q And so you reported directly to Paul Simmons?

20 A That is correct.

21 Q So what was your frequency of interaction --

22 Well, before we do that, let's mark this one as
23 15.

24 (Exhibit 15 was marked for identification.)

25 BY MR. JOHNSON:

1 Q So what was the frequency of your interaction with
2 Mr. Simmons during 2017 and '18 while you and he were
3 both at the plant?

4 And maybe I should clarify first. Are you still
5 there, in that role?

6 A No. I retired about two and a half years ago.

7 Q Oh, I see. What would've been the date of your
8 retirement? That might stick in your mind.

9 A It does. I think it was April 1st, '18? '19?
10 I'm trying to figure out -- I've been out two and a half
11 years.

12 Q That would be two and half years.

13 A '19, yeah. April '19.

14 Q Okay. So, during that time period, between when
15 you took on that role at Watts Bar and when you retired,
16 what was your frequency of interaction with Mr. Simmons?

17 MR. MEALOR: Objection.

18 A It would depend. I mean, you know, if we were
19 both on site, then I would see him every day. If we
20 weren't on site, then I may not see him. But we had
21 frequent and steady interactions.

22 Q Got it. This may be a difficult question to
23 answer. But sort of what was the day like for you and
24 Paul Simmons? I mean, what was -- what were y'all doing
25 up there at the plant --

1 things that you were talking about in your role as
2 support person, and I guess the role -- the corporate
3 role that you had involved with Watts Bar when they were
4 having these issues. I want to get into some
5 discussion --

6 A Sure.

7 Q -- of that, because that's what I think has
8 pertinence perhaps to this case.

9 A Okay.

10 Q So, this is Document 27. Take a look at that.
11 And it's a long document, but it's one I'm guessing
12 you're familiar with. So if you can just identify
13 whether this is a document you're familiar with, that
14 would be helpful.

15 A Okay. (Reviewing document.) Yes, I am familiar
16 with the confirmatory order.

17 Q Okay. And so that order, which is formally called
18 EA-17-022, is a confirmatory order issued by the NRC,
19 correct?

20 A That is correct.

21 Q And so we're going to just use a few pages from
22 this, so try to follow me here. If you would look at the
23 second page, please, sir.

24 A Sure.

25 Q It says that there was a previously issued

1 confirmatory order, EA-09-009, dated December 22, 2009;
2 is that correct?

3 A It does say that.

4 Q Are you familiar with EA-09?

5 A I am familiar in that -- I do know some of what
6 happened. I didn't, I didn't deal in the response
7 necessarily. And at that point I was much, I was much
8 more junior in the organization, so I didn't have any
9 involvement at the time when this was issued. But I am
10 familiar based on why we ended up with this, and the
11 compounding effect of the '09 order and what that meant
12 to this.

13 Q I see. So, you were aware at least that the '09
14 order regarded the same kind of issues as the '17 order,
15 and the '17 order was a follow-up to that?

16 A That's right.

17 Q Okay. So, let me just read for you in that
18 indented paragraph there, which kind of summarizes -- is
19 a summarization of the '09 order.

20 It says: "Confirmatory order modifying license,
21 dated December 22, 2009, states, in part, that by no
22 later than 90 calendar days after the issuance of this
23 confirmatory order, TVA shall implement a process to
24 review proposed licensee adverse employment action at
25 TVA's nuclear plants before actions are taken to

1 determine whether the proposed action comports with
2 employee protection regulations."

3 Does that conform with what your understanding of
4 the '09 was about, as is recited here in the '07 -- the
5 '17 order?

6 A So, I would say definitely for the '17 order. I
7 think the '09 order, I think that TVA probably did not
8 get that right and fully implemented; otherwise, we
9 would've not been sitting with this new order in '17.

10 So, in '09, the way I understand it is that there
11 were some people that were terminated and that the NRC
12 came back and said they believed they were terminated
13 based on raising some concerns, and so the TVA did
14 retaliate, is the way I understand it from that piece.

15 And so in the '17 order, we had to go through and
16 make sure that we protected people's rights to raise
17 issues in a safety consciousness work environment space
18 without having a chilling effect based on that. And that
19 was our primary responsibility in response to this order.

20 Q So the '17 order was the second time that this had
21 occurred to TVA regarding making sure that adverse
22 employment actions were not being taken for reporting
23 safety issues?

24 A Correct.

25 Q And when it talks about employee protection

1 regulations there at the end of the part that I just read
2 to you, that would refer, would it not, to the protection
3 regulations in 10 CFR 50.7? I imagine that's a number
4 you're familiar with?

5 MR. MEALOR: Objection.

6 A I am familiar with it in that -- I would have to
7 go back and look. But yes, in the sense that it is
8 protections just as a normal ability for workers to raise
9 any kind of safety concern without fear of retaliation.

10 Q Sure. And Section 50.7, is that something people
11 kind of know, well, that's the NRC reg that says that we
12 can't retaliate against people who --

13 A When you say --

14 Q -- report --

15 A -- "people" would know that, I would say probably
16 not a lot of people. I would think people that were
17 specifically in this work might know that. But the
18 average worker --

19 Q Oh, sure.

20 A -- by far would not have any idea what that means.

21 Q But somebody like you and somebody like
22 Mr. Simmons would know what that is?

23 A For me I would say yes, and I would assume he
24 would also.

25 Q Okay.

1 A And to be clear, the NRC said to us that -- the
2 second time around, what they told us is that we failed
3 to implement a process to verify these people were
4 protected in the '09 order. So the way I remember it or
5 the way I understood it in the '09, they said, you know,
6 we'll do some training and we'll do this, but we didn't
7 implement a process that the NRC felt like met all the
8 wickets and it had all the things in there in order to
9 prevent that, by their -- what their internal
10 understanding of what would happen versus what actually
11 happened.

12 Q And did not the cause of that issue arising, again
13 for NRC, wasn't it prompted by other employees who had
14 made complaints, that they found to have valid complaints
15 about that?

16 MR. LANTIS: Objection to form.

17 A So, I, I -- honestly, I don't know that I could
18 say that. What I would say is I think that the NRC, with
19 Watts Bar 2 coming on and with all the things that went
20 on with that, just the general work environment is what
21 ended up leading to this.

22 Q Okay. Well, in any case, let's look at page 3.
23 Well, let me ask this first. If it didn't come to NRC's
24 attention, the -- let's call it noncompliance with their,
25 NRC's, understanding of the '09 confirmatory order, if

1 laid off because the work was no longer needed. And what
2 started happening was that employees started making
3 complaints that you would typically see through their --
4 to their supervisor, "Hey, this ladder's not this, or
5 this is not that, or I don't -- you know, I think we're
6 making a mistake here." And then instead -- or write a
7 CR, a condition report, which we use. That's how we
8 capture any kind of deficiency that we see. Almost any
9 deficiency you see would go into this program so you can
10 address it and you'd have record tracking.

11 And so what we, at Watts Bar, saw, prior to me,
12 was that people -- instead of using all those avenues,
13 they were just calling the NRC and they were saying
14 things. And the NRC was, like, "Why are they calling us
15 about this? This is something that should be easily
16 handled." And that number was just incredibly high,
17 compared to the rest of the industry.

18 So, two things were in there. You know, I believe
19 one is nobody had started up a unit, so we didn't know
20 what that looked like. And since the last time anybody
21 had done any real work like that, the whole culture
22 around how we treat workers had changed for the better,
23 how we are more open for the better. And at the time,
24 the station had a site vice president that his culture
25 was a lot different than the culture up an hour north of

1 you just clarified, passing judgement on the validity of
2 these complaints, you were just saying there was a ton of
3 them and there needed to be a process to deal with it?

4 A There was a process. What I was saying --

5 Q A better process.

6 A What I was saying -- I think the process was fine.
7 The process wasn't being used --

8 Q I see.

9 A -- always. A lot of things were bypassed, instead
10 of talking to your supervisor, talking to their boss,
11 writing a CR, bringing it up in a thing. So this
12 became -- and that's why -- that's what brought the NRC
13 back to Watts Bar and that's what really got this going.
14 Because the NRC was having to answer questions as to why
15 are there -- what's going on at Watts Bar, why are there
16 so many complaints. And so they were also, you know --
17 they were getting pressure from their bosses.

18 Q Well, I mean, at least the NRC found in this
19 order, did they not, that Tennessee -- TVA had failed to
20 comply with the '09 confirmatory order?

21 A By implementing the process. Absolutely.

22 Q Yeah. And so let's look at that on page 3, the
23 last paragraph on page 3, where it starts with "Contrary
24 to the above..."

25 A Yes.

1 Q Would you agree with me that it says as
2 follows: "Contrary to the above, from November 2014 to
3 August 2016, TVA failed to comply with confirmatory
4 order" -- the '09 order, "and that WBN failed to
5 implement a process to review proposed licensee adverse
6 employment actions at WBN before actions were taken to
7 determine whether the proposed action comports with
8 employee protection regulations."

9 That, that was the finding of the NRC, correct?

10 A That was the finding from the NRC.

11 Q Okay. And that that finding, if you read
12 subparagraph 2 there, that that also applied to
13 significant adverse employment actions taken by
14 contractors at the --

15 A No.

16 Q -- nuclear plant?

17 A I would disagree. What it says is, the second
18 part, that it failed to implement a similar process for
19 contractors. So, it didn't say that it resulted in -- it
20 failed to implement a process to review --

21 Q Right.

22 A -- for significant action -- adverse actions. So,
23 termination and/or suspension.

24 Q Well, essentially, 1 and 2 are exactly the same,
25 except that 2 applies to contractors and 1 applies

1 directly to TVA. Would --

2 MR. MEALOR: Objection.

3 Q -- that be correct, of these two subparagraphs?

4 A So, yes, 1 applies to TVA employees and 2 --
5 number 2 applies to contractors. The number 2 piece is
6 for adverse actions for contractors.

7 The definition for an employee was expanded. If
8 you move an employee from a job location, if you do an
9 involuntary RIF. So there's more if you were a TVA
10 employee that would be applicable as a full-time employee
11 versus a contractor. So there's a few more things that
12 went into the 1.

13 Q And you're reading between the lines here.
14 Literally what it says is that it "failed to implement a
15 process to review significant adverse employment action
16 by contractors performing services in TVA's nuclear
17 plants."

18 A That is right.

19 Q Okay. So evidently -- on page 4, if you look
20 under subheading Roman numeral III on page 4.

21 A Yes.

22 Q Evidently, this was mediated in June of '17
23 between NRC and TVA. Do you recall that?

24 A I do.

25 Q Were you -- did you attend that mediation?

1 room.

2 (Mr. Meador exits deposition.)

3 (Off-the-record for technical adjustments.)

4 BY MR. JOHNSON:

5 Q So, the second sentence of that paragraph that we
6 were reading about, that the TVA and NRC agreed that it
7 was a violation of regulatory environments, the next
8 sentence says, "The NRC and TVA agree that the violation
9 is a significant matter." Is that correct?

10 A It is.

11 Q And just in your view as you were going through
12 these things and as you look at it now and reflect on it,
13 would you agree that those are accurate statements, that
14 it was a significant matter and it needed to be dealt
15 with?

16 A Yes.

17 Q And that was your job, in part?

18 MR. BERNIER: Object to form.

19 A Correct.

20 Q So you were kind of called in to sort of try to
21 help fix this stuff?

22 A Well, I was called in primarily, initially, to
23 help fix the performance issues and the struggles that
24 they were having. And then this became part of my
25 purview when I became the plant support director. So

1 Q Yeah. 4 -- evidently I misread this. Page 9
2 does not directly follow page 4, evidently. So, let's
3 look at the -- you have the full form order?

4 A I have everything you gave me.

5 Q Let me take a look at that for a second.

6 MR. LANTIS: Respectfully, Jim, I'm a little
7 confused about where we're trying to go right now.

8 MR. JOHNSON: Yeah. Well, that's -- I am
9 too.

10 BY MR. JOHNSON:

11 Q So, page 5 -- let's see if we can look at this
12 together a little bit.

13 Page 5 lists the actions that page 4 said were the
14 actions that TVA -- the corrective actions that TVA is
15 going to take, right?

16 A Correct.

17 Q So, take a look at page 5, and let me know if this
18 is kind of the birth of the Executive Review Board
19 process.

20 A Well, so, I would say it's not necessarily the
21 birth of the Executive Review Board. We had something
22 previously, what we called a consensus call, where
23 anytime anybody was going to terminate an employee from a
24 site, all the other site vice presidents would have a
25 phone call with the senior VP of operations. And I know

1 this because this was my job for years, where we would
2 bring in and we would talk about -- which was the belief
3 it was meeting the '09 order.

4 So they -- what they were doing is they were
5 having these phone calls with human resources, ECP
6 potentially, the site VPs, and the supervisor of the
7 person being terminated or suspended. And they would --
8 and that's how the '09 was implemented -- or attempted to
9 be implemented at the time.

10 And so when the order came out -- when this order
11 came out and said your process is not all in place like
12 we intended it to be in place, that's when these things
13 came in. And then we created a -- instead of a consensus
14 call, we created -- or we transitioned to an ERB.

15 Q Okay. Let me kind of put it this way. And excuse
16 the analogy, but I might as well continue it since I went
17 down that path.

18 So the consensus --

19 A Call.

20 Q -- that you talked about was kind of the embryonic
21 stage, which ended up turning into the full-blown ERB,
22 which was then mandated by the NRC in this confirmatory
23 order?

24 A That's correct. Or we agreed to it in the
25 confirmatory.

1 Q Right.

2 A That's correct.

3 Q Okay.

4 MR. BERNIER: Object to form on that
5 "embryonic" question.

6 MR. JOHNSON: Just because it's a poor
7 metaphor, or because you really object? I like that
8 metaphor. I'm sorry, you're going to have to live with
9 it, but maybe the judge won't.

10 BY MR. JOHNSON:

11 Q This is talking about hiring some of these
12 consultants to help with the process, to make sure that
13 they were then doing the ERB process properly. That's --
14 none of that's you, right?

15 A I did not hire -- yeah, the whole -- this whole
16 thing was put together by -- they had a whole team that
17 came together to write the procedure and do all those,
18 but I did not hire those people directly.

19 Q Okay.

20 A I did work with the executive adviser. He would
21 come, he would review our records and he would ask
22 questions, he would sit in on the meetings and -- to
23 ensure that we were in compliance with the order. So, I
24 worked with him quite a bit.

25 Q Okay. So, continuing on, on page 6 we have

1 paragraph 3, do we not, that says: "Based on TVA's
2 review of the incident," whatever that is, as we've
3 already discussed, "and NRC's concerns with respect to
4 precluding recurrence of the violation, TVA agrees to
5 implement the following corrective actions."

6 So there are corrective actions listed there of
7 communication requirements. Let's not go in those in
8 detail.

9 Correct?

10 A That is correct. It does say that.

11 Q And so on. And let's get to the paragraph that I
12 was trying to get to on page 9 earlier, which falls
13 under --

14 A Training.

15 Q -- Training. And so down at the bottom of the
16 page it says: "How to properly implement the adverse
17 employment action process, including at a minimum
18 discussion of the following."

19 A That's correct.

20 Q And there's two types of things that are supposed
21 to be made sure -- or trained on. And one is that
22 "Disciplinary action is not taken as a result of an
23 employee's engagement in activities protected by CFR" --

24 A 50.7.

25 Q -- 50.7."

1 A Correct.

2 Q And then there's this thing about the safety
3 conscious work environment. Right? "... if the action
4 could be perceived as negatively impacting an individual
5 or organizational aspect of the safety conscious" --

6 THE REPORTER: You lost me there.

7 MR. JOHNSON: Sorry. Let me go slower.

8 Q Number 2 is: "Determination if the action could
9 be perceived as negatively impacting any individual or
10 organizational aspect of Safety Conscious Work
11 Environment, cause a potential chilling effect or be
12 perceived as retaliatory, independent of disciplinary
13 legitimacy."

14 So that's something that was to be --

15 A Trained on.

16 Q Trained on. Okay.

17 And the training was to be given, if you look a
18 little further down at number 2 there, to "all working
19 status nuclear business group supervisory employees,
20 contractor supervisory employees involved in
21 nuclear-related work activities..." Correct?

22 A That is correct.

23 Q Okay. Now, you talked about a chilling effect
24 earlier in your testimony. Did that come out -- a
25 chilling effect letter. Tell us when that came out in

1 to review proposed actions, such as demotion, denial of a
2 promotion, an unfavorable performance appraisal, transfer
3 to a less desirable job, and denial of access."

4 Q So denial of access was one of the things that the
5 NRC cited TVA for at this point at Watts Bar. And let's
6 clarify that.

7 If you go back to the first page, this was
8 "Follow-up for NRC Confirmatory Order EA-17 and Chilled
9 Work Environment Letter EA-16-061," right?

10 A Correct.

11 Q So this involved Watts Bar? This letter involved
12 Watts Bar?

13 A That is correct.

14 Q Okay. Oh, it says the chilled work environment
15 letter was a 16. Does that mean it happened in 2016?

16 A No. I believe -- I don't, I don't know.

17 Q Well, so far, I mean, every one we've looked at,
18 like EA-9, was sent in 2009; EA-17 was in 2017. Have you
19 ever seen one of these that the number doesn't match the
20 year in which it happened?

21 A I don't know. You're asking me to speculate, and
22 I'm --

23 Q Yeah. I'm just trying to get back to our other
24 question about when the chilled work environment letter
25 was issued.

1 A Yeah. It would've come in that time frame. That
2 certainly would've been reasonable for me to believe,
3 yes.

4 Q So it's kind of contemporaneous with the
5 development of the confirmatory order that was finally
6 issued in '17?

7 MR. BERNIER: Jim, if I can help, the chilled
8 work environment letter was in March of 2016.

9 MR. JOHNSON: Okay. Thank you.

10 Q So, among the things that they just listed in the
11 part that you read on page 5, was that there was a
12 failure to provide guidance for the implementation of a
13 process to review proposed adverse actions on denial of
14 access. That's one of the things that they put, right?

15 A That is one of the things, yes.

16 Q And this was that the Executive Review Board, ERB,
17 procedure failed to do that, right? As you read that,
18 that's what it says?

19 MR. BERNIER: Object to form.

20 Q Well, let's read, beginning with "Specifically..."
21 Go ahead, you read it.

22 A So, it is not that the ERB failed to do that. The
23 ERB is a function of the requirements from the procedure.
24 So the procedure failed to include all of that in there
25 to the NRC's desire from the original '09 order.

1 So, specifically, the procedure did not have these
2 things in there that would ensure that the ERB completed
3 those reviews associated with these functions.

4 Q So the ERB was -- the NRC found that the ERB
5 should have provided ERB provisions for the denial of
6 access?

7 A Not quite. So, the NRC found that TVA failed to
8 have their procedures fully developed to ensure that the
9 ERB reviewed all these things. So, the ERB was not at
10 fault, because ERB did not have that.

11 Q Right.

12 A It was the process that was not updated. Not that
13 the actions taken weren't correct, it was just that the
14 process didn't fully meet what they were asking for.

15 Q Understood. But isn't this saying that the ER --
16 the failure is that the ERB was not reviewing denials of
17 access?

18 MR. BERNIER: Object to the form.

19 A No, that's not what it's saying. What it's saying
20 specifically -- it says specifically, the procedure, as
21 it lists here -- which the title of the procedure is
22 Adverse Employment Action and the Executive Review Board,
23 those two failed to provide procedural guidance for the
24 process.

25 The ERB would not -- the ERB in itself would never

1 have anything to do as far as developing a procedure.
2 They would be executing the procedure that was written.

3 Q Okay. So isn't this saying that the procedure
4 should be rewritten to have ERB --

5 A To include those.

6 Q -- review denial of access?

7 A That's right.

8 Q Okay.

9 MR. BERNIER: Object to the form.

10 Q Okay. Well, let's look at it further. Let's look
11 at page 8. So, consistent with, I think, what you just
12 testified to, I'm reading halfway down, "The only adverse
13 actions..." Do you see where I'm starting there? A
14 little ways down into that --

15 A You're on page 8?

16 Q Yes, sir.

17 A Which paragraph?

18 Q The first non-italicized paragraph.

19 A Okay. So we're where again?

20 Q "The only adverse actions..." That's where I'm
21 reading. I'm just getting you on the same page.

22 A Yes.

23 Q "The only adverse actions for which the procedure
24 requires a review include: suspensions (one or more days
25 off without pay), terminations for cause, involuntary

1 reduction in force, no-fault terminations of employment."

2 So what they mean is those are the only things
3 that the ERB, as presently constituted at this time,
4 reviewed?

5 A That is -- correct. That's what it says.

6 Q Okay. And it says: "These four adverse actions
7 are subject to an ERB review. However, demotions, denial
8 of a promotion, an unfavorable performance appraisal,
9 transfer to a less desirable job, and denial of access
10 are not required to be reviewed."

11 And so then we go down to the bottom, and the last
12 sentence in that block says: "Therefore, since this
13 procedure revision does not require reviews of personnel
14 actions defined as adverse action, it is not in
15 compliance with the '09 confirmatory order and thus is a
16 failure to ensure that the current CO requirements
17 continue to be met."

18 So I'm just trying to establish what I think
19 you've already testified to, that it clearly does say in
20 this that the ERB should henceforth review denials of
21 access?

22 A That's correct.

23 MR. BERNIER: Objection to form.

24 Q And let's look at the next page, on page 9. And
25 in that block there is a subparagraph called Severity.

1 A Okay.

2 Q And it says there, does it not, that "The NRC
3 determined this violation constituted a more than minor
4 traditional enforcement violation associated with failure
5 to implement the requirements of EA-17."

6 A That's right.

7 Q All right.

8 A And it says that -- we didn't fail to do it, they
9 just said the procedure didn't say that.

10 Q Right. And now they wanted you to start doing it.

11 A That's right. The procedure. Right.

12 Q All right. Now, this is interesting. Look at
13 Meeting Summary at the bottom.

14 A Okay.

15 Q This -- read those two little paragraphs for me
16 there under Meeting Summary.

17 A "On September 21, 2018, the inspector presented
18 the inspection results to Mr. Paul Simmons, site vice
19 president, and other members of the licensee staff. The
20 inspector confirmed that all proprietary information
21 reviewed during the inspection was returned and that none
22 of the potential report input discussed was considered
23 proprietary.

24 "The inspector conducted additional briefings with
25 your staff to the potential findings on November 2, 2018

1 and November 9, 2018. On November 28, 2018, the
2 inspector presented the final inspection results to
3 Mr. Paul Simmons, the site vice president, and other
4 members of the licensee staff."

5 Q So, November 28, '18 is also the date of this
6 letter, is it not?

7 A I would imagine. Yes.

8 Q So it looks as if -- like you say, there was
9 probably a lot of talking back and forth about who was
10 going to be in it and who wasn't. But the actual letter
11 was put in the hands of Paul Simmons on --

12 A On November 28.

13 Q -- November 28th.

14 A That's correct.

15 Q And there was -- and "other members of the
16 licensee staff." Were you present for that?

17 A Yeah, I'm sure I was.

18 I failed to mention -- you asked me earlier some
19 of my responsibilities. Licensing actually worked for me
20 also in the organization. So yeah, I would've almost
21 certainly been present for that. My -- I would imagine,
22 if I went back, that the entire senior leadership team
23 would've been present at the meeting. I would've had
24 interactions with the NRC during this review. They
25 would've been, you know, on site for -- I believe it was

1 two weeks, two to three weeks they were on site doing
2 these reviews.

3 Q Okay. I'm going to show you -- we're looking at
4 28 now.

5 THE REPORTER: Was that document marked, sir?

6 MR. JOHNSON: Oh. No. We need to mark it.

7 (Exhibit 17 was marked for identification.)

8 BY MR. JOHNSON:

9 Q Take a look at these documents, what will be the
10 next exhibit, 18. I don't think you're -- you may or may
11 not have seen those before, but tell me whether you have.

12 MR. BERNIER: Jim, what document number is
13 this again?

14 MR. JOHNSON: 28. It's the access denials to
15 Goforth. It's the original denial of December 7th and
16 then the denial on appeal of January-something.

17 A January 18th. I have not seen these documents.

18 Q Okay.

19 A I don't remember seeing them.

20 Q Well, does it appear from those documents as if
21 Mr. Goforth's access was denied to him on December the
22 7th?

23 MR. BERNIER: Objection to form.

24 A Yes, it does appear that it was denied on December
25 7th.

1 Q And does it say anything about cause?

2 A Yeah. "Falsifying nuclear records" is the basis.

3 Q And the appeal is dated when?

4 A January 18th, for falsifying documents. The
5 decision was upheld.

6 Q Okay. So, both of these were done after the
7 November 28th letter and meeting in Mr. Simmons' office
8 that you attended, right?

9 A Correct.

10 Q Okay.

11 A Well, at the station. I don't know where the
12 meeting was, if it was in his office or where.

13 Q I see. It could've been at corporate or could've
14 been --

15 A It could've been -- it was probably at Watts Bar,
16 but it wasn't in his office. It would've been in a
17 meeting room somewhere.

18 Q I see. All right.

19 MR. JOHNSON: So, let's go ahead and mark
20 this one.

21 (Exhibit 18 was marked for identification.)

22 BY MR. JOHNSON:

23 Q So, was Mr. Goforth given an ERB review for the
24 denial of his access?

25 MR. BERNIER: Objection to form.

1 A Mr. Goforth did receive an ERB. Absolutely.

2 Q He received an ERB on his termination, correct?

3 A Within that ERB -- so, I'm not sure how familiar
4 you are with ERBs. But an ERB does not make a decision
5 whether or not to terminate an employee or not. That
6 decision has already been made when the process brings
7 the information to the ERB.

8 Q I'm understanding that, but I'm not asking --

9 A So at the ERB, when the discussion was made that
10 the individual was going to be terminated, then that also
11 includes denial of access.

12 So, those two things do not exist in several
13 worlds. We would never fire -- terminate somebody for
14 falsifying records and then not terminate access. Those
15 are automatic. They're -- I have never heard of a case
16 where somebody had falsified nuclear records, that was
17 validated and proved to be true, they were terminated and
18 yet they kept their access.

19 Q Let me go back to my question.

20 A Okay.

21 Q Was Mr. Goforth given an ERB review for the denial
22 of his access on or after the termination of his access?

23 MR. BERNIER: Objection to form.

24 A I don't want to get twisted around here. But I
25 want to make it really clear that when he was terminated

1 and he had the ERB, that discussion -- and that includes
2 the denial of access.

3 So, the NRC's letter that says, "Hey, your
4 procedure does not -- we want it to be bulkier or have
5 more detail," that did not preclude those things from
6 happening. It just said that they weren't specifically
7 called out.

8 And in the case -- in that chilled work
9 environment letter, it specifically says, "While these
10 things are not in there, we found no evidence that this
11 has not happened." So it happened the whole time. The
12 procedure just didn't specifically say, you know, "is
13 this, is this ERB for denial of access," those other
14 things that they called out.

15 So, in their letter, the chilled work environment
16 letter that you handed me, it said "While we specifically
17 didn't find any of these things, these things need to be
18 included in your procedure."

19 And so when we terminated -- so, like I said, I
20 worked on the consensus calls, starting back in 2000 -- I
21 don't know -- '11 time frame maybe, in that time frame,
22 for a couple of years. And every time that somebody was
23 terminated, that was also the understanding is that they
24 had lost access, and what does that implication mean, and
25 so forth, around that.

1 So, we did not have another ERB after Mr. Goforth
2 was terminated and after the chilled work environment,
3 because the ERB had covered that. And also, in the
4 chilled work environment letter it probably says you have
5 60 or 90 days to implement these and to make sure these
6 things are added into your process.

7 So there would've been almost no instance in a
8 process where on something that happened mid-November
9 would've been fully implemented in December or early
10 January. Not to say -- it would've been rare, you know.
11 It wouldn't have been immediately.

12 Q So are you saying that if it were formally
13 implemented, then it should have provided for an ERB
14 review of the access?

15 MR. BERNIER: Objection to form.

16 MR. LANTIS: Objection to form.

17 A No. What I'm saying is that the ERB would've done
18 that in the -- when they went through the process of the
19 original termination.

20 Q Okay. I'm going to show you the final signed ERB
21 proceedings, and I'm going to ask you to show me in there
22 where it says that this includes a denial of his
23 access --

24 A Okay.

25 Q -- or whether Mr. Goforth was noticed in any way

1 that he might lose his access over this.

2 A Okay. Well, he would've not seen these forms.
3 So, he would not have been notified with these forms. He
4 would've been notified with the forms you just handed me,
5 that here's your denial of access. That's how, that's
6 how an individual is notified.

7 Q But he was notified that your access has been
8 denied, not that his access could be denied and there was
9 a process for that, right, on December 7th?

10 A On December 7th? I'm sorry, let's -- we got a lot
11 of dates floating around here.

12 Q Well, that was what I handed you, which was his
13 denial of access.

14 A Okay. Yeah. So --

15 Q And it said, "Your access is denied."

16 A That's correct.

17 Q It didn't say, "Hey, you know, there's a process
18 here. We may deny your access. We're giving you notice
19 of that."

20 He -- so show me where there's a notice of that in
21 the ERB proceedings or that the ERB proceeding said
22 anything about denial of access.

23 MR. LANTIS: What is that document you just
24 provided him, Jim?

25 MR. JOHNSON: I'm sorry. It's --

1 THE WITNESS: 26.

2 MR. JOHNSON: -- Document 26. And we can put
3 both of these in evidence.

4 A So, I'm not sure exactly what you're asking me.
5 You want me to read on here where Mr. Goforth would've
6 been given information that his access was denied?
7 Because that's not --

8 Q Anything about access. Just tell me if there's
9 anything about his access in -- those are the ERB
10 proceedings as given to us by TVA.

11 A Yeah. On page 1, termination for cause. That's
12 the, that's the first conversation about denial of
13 access. If you terminate somebody for cause -- so, I
14 can't -- you can't ask me to say don't just read here.
15 You've got -- there's a part of this that is what's your
16 responsibility, what do you have to do when these
17 different things happen.

18 And so a termination for cause would've elicited a
19 response that you have a procedure that says access
20 removal, that somebody would've called and said this
21 person's been terminated for cause, or we need to suspend
22 their access based on a myriad of other reasons. And
23 then that's when he would've been notified that his
24 access had been removed -- terminated.

25 Q Understood. Tell me whether anywhere in that

1 document it mentions access. I mean, specifically that
2 word, "denial of access" or "access," not just implicit
3 from some other words.

4 MR. BERNIER: Objection to form.

5 A I don't know that it says that in here. I mean,
6 if you want, we can take the time and I can read all of
7 it. But I, I -- there would be no basis for me to know
8 that that's in here.

9 Q Okay. Well, would you -- if I tell you that I've
10 looked at it and it doesn't mention access anywhere in
11 there, would you accept that?

12 A I would not be surprised. I would accept that.

13 Q Read it then.

14 A I would accept it then. I mean, I'm not doubting
15 you that it doesn't say that access is not called out
16 here. That's not what I'm saying. What I'm saying is
17 just because it's not specifically called out here --
18 just as the NRC said, we found no instances where it
19 wasn't -- the right things were not done as a result of
20 termination of access or suspension. That's what I would
21 say is --

22 Q So is it fair to say that your testimony is that
23 access is not mentioned in those ERB documents that are
24 in your hands?

25 A Not directly.

1 would -- that those -- that that would result in access
2 being suspended, at least until all the fact-finding was
3 completed and then the final results.

4 Did we have an ERB -- which, once again, didn't --
5 doesn't have any impact on whether or not Mr. Goforth was
6 terminated or whether or not Mr. Goforth lost his access.
7 That's not what the ERB did. The ERB reviewed the fact
8 that Mr. Goforth was terminated, and what would that
9 impact be on the rest of the workforce.

10 This isn't about whether or not his termination
11 was right or wrong, and it isn't about whether or not his
12 access should be removed or not. This process is about
13 was he involved in any protected activities, and would
14 those -- would that involvement -- is there any way that
15 that can be linked to why he was terminated. If yes or
16 no, then you have to go down a path of that. And then
17 how does that -- the action of terminating him, what is
18 the perception that that would create on the workforce,
19 especially had he been involved in some kind of protected
20 activity in the past.

21 MR. JOHNSON: All right. Let's mark this one
22 as Exhibit 19.

23 (Exhibit 19 was marked for identification.)

24 MR. JOHNSON: I have a request from
25 Mr. Goforth for a break.

1 that I called the NRC and said 'they forced me to do
2 this,'" and then TVA was trying to terminate him for
3 doing that, that would be a whole -- that would be
4 terminating for his protected activity.

5 If somebody said, "We've got him now, because he
6 involved himself in this protected activity, and now we
7 caught him and now we can fire him," that would, that
8 would -- that wouldn't stand.

9 So when we have these meetings -- and OGC is on
10 there and HR is in the room, and everybody like that, and
11 we have this conversation about protected activity, the
12 next question is is there any way that we can perceive
13 these two things tied together? And if so, we need to
14 understand that and resolve that before we move forward.

15 Q Are you finished? Are you finished with your
16 answer?

17 A I am.

18 Q Thank you.

19 All right. Let's go to Staff Augmentation
20 Contractor.

21 A Where are you at?

22 Q Would you read that one? It's right under
23 Retaliation, a few lines down.

24 A Staff Augmentation Contractor. "Contractors who
25 supplement the TVA workforce and are under the

1 supervision of a TVA employee."

2 Q Is that your understanding of what a staff
3 augmentation contractor is for purposes of the ERB?

4 A Yes.

5 Q Okay.

6 MR. JOHNSON: Okay. Let's mark this one as
7 the next one.

8 (Exhibit 20 was marked for identification.)

9 BY MR. JOHNSON:

10 Q We're looking at Document 21 now. Would you take
11 a look at that one and let me know if you can identify
12 that for us?

13 A This looks like part of the ERB package and SCWE
14 mitigation plan.

15 THE REPORTER: And what?

16 MR. JOHNSON: SCWE is S-C-W-E, all capitals.

17 THE REPORTER: Thank you.

18 MR. JOHNSON: Safety conscious work
19 environment.

20 THE REPORTER: Well, of course. That's what
21 I was going to say.

22 THE WITNESS: How'd you not know that
23 already?

24 MR. JOHNSON: That's the first time I've
25 heard it referred to as "Ski-wee" (phonetic). So, I

1 Q So, can you tell me the dates for the other
2 signatories on the Executive -- the other members of the
3 Executive Review Board?

4 A They range anywhere from 11/26 to 11 -- that would
5 appear to be 11/29 of 2018.

6 Q Who were the members of that Executive Review
7 Board?

8 A Meshelle Augustin, it shows myself, DeWarren
9 Washington, Ryan Dreke, and then Paul Simmons.

10 Q So, just go through those and tell me what date
11 they signed.

12 A This one doesn't have a signature for Meshelle --

13 Q There's another page.

14 A Okay. So hers is on November 26, 2018, same date
15 as mine. DeWarren Washington signed it and Ryan Dreke
16 both signed it on November 27th, and then Paul Simmons
17 signed it on November 29th.

18 Q Was there an actual date when the ERB convened
19 together in one place at one time?

20 A I would imagine so. I mean...

21 Q Do you recall whether all the members of the ERB
22 met regarding Mr. Goforth, and they met together at the
23 same place and same time?

24 A There's a quorum requirement in that procedure
25 that we looked at earlier that would say who absolutely

1 has to be there and who's optional in that case. And
2 based on these being signed and based on this being two
3 and a half years ago, I would believe that these were the
4 people that were in attendance, that met for the meeting.

5 I did a lot of ERBs, and Mr. Goforth was not
6 unique in me doing that. So, calling his out
7 specifically would be very hard for me to know. But I
8 would presume -- assume that all these people were
9 involved in the ERB.

10 Q Well, they were involved in the ERB, but you have
11 no recollection of there being a meeting of these people
12 together at one place, at one time, to make decisions on
13 Mr. Goforth?

14 A I cannot imagine that we were not all together for
15 this meeting. Because the way the ERBs are managed is we
16 all have to be at the meeting -- the quorum requirements
17 have to be met in order for the ERB to convene.

18 Q What are the quorum requirements?

19 A It's in the procedure. It's two and a half years
20 ago. I would be guessing or going off my memory.

21 Q So, did anyone attend the meeting except for the
22 people that are listed there on the -- that you just read
23 to me, the ones who signed?

24 A If you would've asked me who was at the meeting, I
25 wouldn't have been able to tell you. That's the reason I

1 can't tell you who wasn't at the meeting -- or who else
2 would've been, I mean, outside of the quorum
3 requirements. Two and a half years ago, and we did
4 these -- this was not an uncommon practice. So to
5 differentiate between Mr. Goforth and somebody else would
6 be impossible for me to know.

7 Q So do you recall whether any witnesses came
8 forward for that proceeding?

9 A I do not. If we can go back and look at the
10 calendar invitations, then we could see who was invited
11 to the meeting, potentially, or if anybody else came, or
12 if there's other documentation. But it's certainly
13 possible that -- for instance, Kim Hulvey, who was --
14 when this email was initially sent out, while I was out
15 she was acting on my behalf. I may've asked her to come
16 to the meeting just so she would've had exposure to it,
17 or I would've maybe asked someone else in my organization
18 to come so that they would understand how these meetings
19 go so if I wasn't there, somebody else could attend.

20 It's possible that additional -- well, it's
21 actually probably most likely that somebody from DZ,
22 potentially, besides DeWarren, was at the meeting;
23 somebody that DeWarren --

24 Q My question was, do you know if anyone else was
25 there. And I think your answer was you don't know, you

1 can't remember. Is that correct?

2 A I think that's what I said.

3 Q Okay. Thank you. I'm not asking you to
4 speculate. I'm just -- if you don't remember, you don't
5 remember, just tell me that you don't remember.

6 A I said -- okay. I thought I said that right
7 upfront, but I'll make it --

8 Q Well, you did, but then you kept going.

9 A Well, if that's all you wanted, you could've said
10 "That all I need," too.

11 Q All right.

12 A We can help each other out here.

13 Q That's what I'll do.

14 All right. So let's look at page 1 of 5 of the
15 final thing that you signed, and then at the draft that
16 was sent to you by DeWarren Washington several weeks
17 before everyone signed it.

18 A So, there's several different forms in here. If
19 you'd be clear which form you want to talk to.

20 Q Well, you're looking at --

21 A I'm looking at two different ones.

22 Q The first page of the one that was signed. That's
23 Exhibit 19.

24 A Okay.

25 Q And now I'm asking you to look at the same page in

1 the draft from DeWarren Washington, which is page 1 of 5.

2 A Okay.

3 Q So, on DeWarren's original draft, DeWarren
4 Washington's, it says task manager was his employee
5 title. Am I correct?

6 A It does say that.

7 Q Okay. And on the final version it says he's a
8 "boilermaker maker," correct?

9 A It does say that.

10 Q Do you recall why that correction was made? Was
11 that at any particular person's insistence?

12 A No. No idea.

13 Q Okay. So do you know what Mr. Goforth's job --
14 let me put it this way. My questions now are with
15 reference to what you knew at the time that the board
16 meeting took place. Okay?

17 A Okay.

18 Q That's the page we're on here, is what was in your
19 mind at the time of the board meeting.

20 So, did you know at the time what Mr. Goforth's
21 job was?

22 A I knew that Mr. Goforth worked for DZ and he was a
23 boilermaker. That's, that's all I can remember.

24 Q Did you know that he was a task manager for the
25 tritium project at...

1 A I did not know that. I do not believe I knew
2 that.

3 MR. BERNIER: Object to the form.

4 Q Okay. So you did not know that at the time of the
5 board meeting?

6 A I don't believe so.

7 Q Okay. Did you know he was earning close to
8 \$200,000 a year? I don't suppose you knew that if you
9 didn't know his job at the time.

10 A I know what I made.

11 Q Okay. You can share that if you want to, but you
12 don't have to.

13 All right. So, as far as you knew, he was a
14 boilermaker who was working in the outage at the time
15 that the board met?

16 A He worked for DZ.

17 Q Okay.

18 A And beyond that -- I know he was supporting the
19 outage in this specific case.

20 Q Okay. And let's look then at the second page of
21 that.

22 MR. LANTIS: Second page of what? We're
23 looking at two exhibits.

24 A To be clear --

25 Q We're on page 2 of 5.

1 A To be clear, when you ask me to look back at these
2 draft documents, I will tell you that I wouldn't consider
3 them to be of much value, because they hadn't been signed
4 and they hadn't been vetted at this point.

5 Q Right.

6 A And they also could've been -- I just would say
7 that just because they're checked here doesn't mean a
8 whole lot to me. The signed ones are what matters.

9 Q Understood.

10 A Okay.

11 Q But I'm just asking you to compare them.

12 A Sure.

13 Q That's all we're trying to do here. Okay?

14 A Sure.

15 Q Literally compare them.

16 A All right.

17 Q We're not passing judgment on them. All right?

18 So on the draft that was prepared by DeWarren
19 Washington, please look in paragraph 1, to the fourth
20 answer down. And that is checked "Yes," correct?

21 A On which document? The signed one or not the
22 signed one?

23 Q The not signed one.

24 A The not signed one. It is checked "Yes," that is
25 correct.

1 Q Okay. And what's the question? Read the overall
2 question in number 1. "To your knowledge..."

3 A "To your knowledge, has the individual engaged in
4 potentially protected activity within the last 12
5 months?"

6 Q "Contacted the legal department? Yes." Correct?

7 A In the unsigned version, yes.

8 Q Right. And that's the version that DeWarren
9 Washington submitted to you and others on the date of
10 this email?

11 A That's the one -- no. That's the one he submitted
12 to, I would imagine, either his HR person or his admin,
13 to Rebecca --

14 Q Okay. Fair enough. So he submitted it to Rebecca
15 Rogers, right?

16 A That's correct.

17 Q But you were copied on it?

18 A I was copied on it.

19 Q And --

20 A And I was on vacation.

21 Q Okay. And so then let's look at, in DeWarren
22 Washington's draft, the unsigned one, the next thing down
23 from "Contacted the legal department," what does that
24 say?

25 A "Contacted NRC, Department of Labor, or other

1 external agency?"

2 Q And what's that checked?

3 A "Yes."

4 Q Okay. Now, on the legal department and the NRC,
5 let's look at the signed version and see how those are
6 checked.

7 A For the legal and the NRC, they were checked "No."

8 Q Okay. And again, what we're doing is comparing
9 here. That's all we're doing. Look at the next one
10 down. And it said "Contacted the Employee Concerns
11 Program." In the draft by DeWarren Washington, unsigned,
12 what does it say for that?

13 A It says "Yes."

14 Q And what does it say in the final version that you
15 signed?

16 A "Yes."

17 "Contacted the Employee Concerns Program? Yes."

18 Q Okay. And so then the next one is "Participated
19 in an investigation, other than the one currently at
20 issue, by providing a written or signed statement?" And
21 in the unsigned DeWarren Washington draft, what does it
22 say?

23 A It says "Yes."

24 Q What does it say in the draft that you signed?

25 A "No."

1 Q What explanation, if any, do you have for why
2 those changes -- well, let me back up a step.

3 DeWarren Washington was, was he not, the reporting
4 DZ manager of these events who then attended the ERB
5 meeting?

6 A Yes.

7 Q Okay. And so you were relying upon, were you not,
8 for the underlying facts of the termination and any
9 protected activity, on what Mr. Washington essentially
10 was telling you? At least at first blush, that's what
11 you look at?

12 MR. BERNIER: Object to form.

13 A So, DeWarren would've been responsible for filling
14 out this section. So are you asking me is that what I
15 expected, is him to fill these out?

16 Q Yes.

17 A Yes.

18 Q And he was the person on the ground that was
19 supervising Mr. Goforth, correct?

20 A I do not know who Mr. Goforth's supervisor was.

21 Q Oh, you don't know?

22 A I mean, I know DeWarren was the site DZ manager.

23 Q Yes.

24 A I don't know if Mr. Goforth reported directly to
25 him or if he had another supervisor in between him. That

1 I don't know.

2 Q Do you remember whether DeWarren attended the ERB
3 meeting?

4 A I would -- I'm sure he did. If I -- I mean, am I
5 going to, you know, hand you my phone if I'm wrong? No.
6 But somebody from DZ attended that meeting, that's in
7 management. That's what I would say.

8 Q Okay. You don't remember, but that would be --

9 A DeWarren --

10 Q -- your expectation?

11 A He signed it. So, based on his signature on the
12 ERB, I'm saying he was there. And if he wasn't, I would
13 be really gobsmacked.

14 Q Well, he signed it on a different day than you
15 signed it.

16 A That's because we -- that's right. Because --
17 nobody signs it that day. Because I go through and I
18 make sure all the paperwork's right; we wait until we
19 talk with legal again and make sure there's nothing
20 there; and then I go around and I have a conversation
21 with HR, "Here's any resolution or any questions or
22 everything's in order," and then they sign it. And then
23 that's how we go through and -- to make sure that all the
24 paperwork is correct before we turn it over.

25 Q Did any information ever come to you that he had

1 written an evaluation of the tritium program that was
2 critical of safety issues in the tritium program in
3 October of 2017? Did anybody ever tell you that? Or --

4 MR. BERNIER: Objection to form.

5 Q Or did that come before the board in any way?

6 A Did the October of 2017 concerns that Mr. Goforth
7 raised about tritium come to the ERB board? I don't
8 remember.

9 Q Okay. Did the fact that those concerns were put
10 in a CR by Howard Cusick -- do you know who Howard Cusick
11 is?

12 A Somebody -- so, if it was put into a CR, I would
13 most likely have read it. You know, I reviewed -- almost
14 every day reviewed all the CRs that were written.

15 Q I see.

16 A And then if a CR was of significance, like it
17 called out something significant or we had to address it
18 or it required more action, then I may've known more
19 about that. So, depending on the level that it rose to,
20 if that makes sense.

21 Q Okay. But do you recall, as a member of the board
22 at that time, whether the CR incorporating Mr. Goforth's
23 evaluation came before the board, the fact that that CR
24 was out there?

25 A I'm looking into documents now to see if I can see

1 anything written or related to it. (Reviewing document.)

2 Yeah, I don't remember anything. Yeah, I don't
3 even remember necessarily who was all there. So I don't
4 know that we had a conversation about Mr. Goforth at the
5 time. Doesn't mean we didn't have one. I just don't
6 remember.

7 Q Okay. Fair enough.

8 Do you recall whether or not anything came before
9 the board at that time that he had contacted Ruth Fordham
10 at employee concerns saying that he was being targeted
11 for failure, by DeWarren Washington?

12 A No.

13 MR. BERNIER: Objection to form.

14 A Contrary to that, what was brought up by Ruth was
15 that they had casual contact and he had no concerns --
16 that he filed no concern with her on August 30th of '18.

17 Q Okay. So you heard that, but did she describe for
18 you that she -- he had said that he was being targeted
19 for failure, by Washington? Do you recall that?

20 MR. BERNIER: Objection to form.

21 A I do not.

22 Q Okay. So, reading down, on the unsigned draft by
23 Mr. Washington, to number 3, on page 2 of 5, it says:
24 "Has the individual raised concerns regarding harassment,
25 intimidation, discrimination, or retaliation or hostile

1 work environment?" And Mr. Washington didn't check
2 either of those boxes, right?

3 A That's correct.

4 Q And then in the final version, how is that box
5 handled?

6 A It's checked "No."

7 Q Okay. So what information can you tell me about
8 that would have caused the changes and additions between
9 the first draft and the final draft? What information
10 came before the board to do that?

11 MR. BERNIER: Objection to form.

12 A What information -- so, nothing came before the
13 board to request these changes. I, I -- if this would've
14 come to the board like this, with all these marked "Yes,"
15 and DeWarren believed that Mr. Goforth had been involved
16 or been associated with all these protected activities,
17 or if in this number 3 bullet where "employee has ongoing
18 litigation," the ERB would not have directed anybody to
19 remove that. Contrary, we would've had a lot more
20 conversation -- or further conversation around --
21 especially with OGC, around the legal; we would've talked
22 with NRC, or anything like that. So if any of this
23 would've come to the ERB, it would've not been "You need
24 to go change this."

25 So, my -- what I would imagine happened is that

1 DeWarren filled out this pretty quickly, or may've copied
2 an old one and didn't delete something out of it and just
3 kept adding to his baseline, you know, forms, where he
4 just changed the information. And then it wasn't
5 until -- you know, until I sign off on it and say, yeah,
6 this is, you know -- this all meets the standard for
7 going to the board, it wouldn't have gone to anybody
8 other than -- for the ERB consumption until it had all
9 been fleshed out.

10 Like, it wouldn't have gone to the ERB unless --
11 unless somebody had an oversight with boxes not checked
12 or something, "if yes, then explain" -- not to say that
13 didn't happen. But the goal was for all the forms to be
14 filled out and go to the board at the same time.

15 Q I think what you're doing here is hypothesizing on
16 how this might -- these changes might have happened, but
17 you have no --

18 A Well, that's what you asked me.

19 Q -- memory --

20 A You asked me why do I think they changed; or if
21 they did change why would the board -- I think your words
22 were "Would the board -- what would the ERB have done to
23 have them changed?" So that's what I was answering.

24 Q All right. And is it fair to say that your answer
25 is you don't remember, you don't know, but you're giving

1 me reasons of what you think might have happened?

2 MR. LANTIS: Objection to the question or to
3 the characterization.

4 You may answer.

5 A Yeah, I -- no. This didn't come -- this didn't
6 come to me like this for me to sign off on and then it
7 show up changed to this either at the ERB or by me. What
8 this was, what I would imagine, would've been DeWarren's
9 initial thing, and then he would've went back and said
10 "past 12 months?" Well, maybe that wasn't in the 12
11 months, so that changes "yes" to "no;" or this was
12 somebody else who was previously left in there.

13 So, as far as do I think this is what showed up
14 and I asked him to change it? Did not happen that way.
15 Do I think it came to ERB with all these things checked
16 as "Yes," and then at the ERB we got there and said,
17 "Well, let's not talk about that, so let's just change it
18 to no?"

19 The only way -- if it would've come to ERB with
20 all these checked "Yes" and then we -- then it would've
21 later been checked "No," had it been determined -- or
22 somebody realized, "Oh, that's -- you didn't read the
23 rest of it, this is only in a 12-month period," would've
24 been the case that it would've been potentially changed.

25 So, no, I don't believe that's the case.

1 Q All right. What -- tell me what you have any
2 specific memory of -- not telling me what might've
3 happened or could've happened or likely happened. What
4 you have any specific memory of for why the boxes were
5 checked the way they were checked in the final version.

6 A Because this is what represented the most accurate
7 truth. I mean --

8 Q How, how -- and that's what I'm asking you, is
9 what was it that made you believe -- that you heard, that
10 made you believe that instead of what Mr. Washington had
11 put --

12 A Well, because when we go through these questions,
13 when we go to the ERB I would -- I'd turn to --

14 Q I'm not asking what would happen. I'm --

15 A I'm telling you what --

16 Q -- asking what --

17 A -- did happen.

18 Q -- did happen.

19 A So, I'm telling you what did happen. Because --

20 Q I thought you couldn't remember --

21 A So I'm telling you --

22 Q -- what happened at the ERB.

23 A -- what did happen --

24 THE REPORTER: Wait a minute.

25 Q Didn't you -- did you earlier --

1 A Wait --

2 Q -- testify you --

3 A Can I finish? Because you told me I could finish
4 my -- answer the question, so that's what I'm going to
5 do. Because --

6 Q What was the question?

7 A The question was, what did or didn't happen. So
8 did happen -- because it happened at every ERB that I
9 ran, was we would go through and they'd say, "Is there a
10 condition report?" And then I would go -- because I had
11 people that worked for me that would pull that report,
12 and we would say "Here's the information. There was one
13 report or there wasn't a report."

14 And then I would say, "Legal, do you have any
15 reason to believe that they contacted the legal
16 department?" And legal would say "We've gone through our
17 records and we have not found anything." We've talked to
18 HR. For all of these.

19 I'd go to licensing and the NRC, and then we would
20 open it up and we'll say, "Does anybody else have any
21 reason to believe that any of these things -- any of
22 these people may have been contacted by Mr. Goforth
23 within the last 12 months that hasn't spoken.

24 So if somebody knew, that wasn't in my licensing
25 department but they knew that Mr. Goforth potentially did

1 contact the NRC, then Paul Simmons might say, "Actually,
2 I know this," or I might say "I know this, because I had
3 a conversation with that person."

4 So that I do know happened, factually.

5 Q Well, every one of your facts that were recited
6 use the word "would" in my --

7 A Did. So let's say "did."

8 Q Okay. So your testimony that you could not
9 remember what happened at the ERB meeting, your memory
10 has improved since you gave me that answer?

11 A No, sir. So, let's, let's kind of like not be so
12 cheeky about it. I can't tell you specifically the
13 conversation, who started the conversation and who
14 finished the conversation, but what I can tell you after
15 reviewing this -- that I haven't looked at in two and a
16 half years -- there are certain processes and certain
17 orders that I followed that if I had to pick this up
18 again today I would step back in and start doing it the
19 exact same way, because I did it the same way every time
20 because I didn't want to get it wrong, because I didn't
21 want to be sitting here one day, and because it was
22 affecting people's livelihood. And anytime somebody was
23 terminated or anything was held against them, that was an
24 incredibly crucial point for me. And so I didn't take it
25 lightly and I still don't. That's why I'm sitting here.

1 Q All right. Let's look at the final version since
2 that's the one you signed, on page 3 of 5. And it says
3 "Witness: Derek Pair." Can you tell me what Derek Pair
4 contributed to the ERB decision, or not?

5 A He contributed -- "not" is what I would say.
6 Because the ERB -- this witness is in relationship to the
7 investigation for termination. So that's what this
8 witness is.

9 The ERB is not deciding whether or not to
10 terminate an employee or not. The ERB is deciding are
11 they involved in protected activities, and how do we
12 communicate that to the workforce that someone who may've
13 been involved in a protected activity it could be
14 perceived as an infringement on that right to do so.

15 Q How do you determine whether the perception of a
16 termination might affect the safety conscious work
17 environment without making a determination that the
18 termination was validly supported?

19 MR. BERNIER: Objection to form.

20 MR. LANTIS: I'm going to join in the
21 objection.

22 A So the validation of termination is outside of the
23 ERB and it's done by process and it's done by all kinds
24 of experts and people who are paid to make those
25 decisions, including legal, HR, all those folks and their

1 years of experience.

2 So when a determination comes to the ERB, like
3 some things in life, you have to understand or believe
4 that those processes were followed and they were true.
5 So that's what you do. So, this person is being
6 terminated for a valid reason. That, that is a fact. So
7 once it's showed up at ERB, this individual was
8 terminated for a valid reason.

9 Now, how do you ensure that that doesn't lead to
10 deterioration in safety conscious work environment or
11 create a chilled work environment? You do that by a lot
12 of things that were in the order: through training,
13 teaching people how to communicate that. There's all
14 kinds of things inside of some of these documents that
15 talk about what you do afterward, you go to the workforce
16 and you have these.

17 We did what's called pulsing surveys, where you
18 would send out things that asked questions to gauge the
19 work environment in specific groups. Different people in
20 the organization would go in and ask, you know -- spend
21 time in the shops and things like that, asking questions
22 and doing check-ins. It's not an easy science, you know,
23 to do that, because you've got to get -- people have to
24 trust you and you have to be available to them. But it's
25 what it was.

1 Q Okay. So, I understand there's a process of
2 developing the safety conscious work environment
3 mitigation plan. And that's what you were just referring
4 to, correct?

5 A Uh-huh. That's right.

6 Q Okay. And so as I'm understanding you, the ERB
7 takes for granted that the termination was valid and then
8 proceeds to see if any effect from that is being properly
9 mitigated?

10 A It's ensuring that any effect from a termination
11 is properly mitigated.

12 Q Okay.

13 A And then making corrections if there seems to be
14 gaps in that.

15 Q So the ERB simply accepts as valid -- that was the
16 first part of my question -- that the termination was
17 valid?

18 A That's correct.

19 Q Okay.

20 MR. BERNIER: Objection to form.

21 Q So, once again -- and again, this is pure
22 comparison. We're not passing judgment on it, but let's
23 just get it in the record. On page 4 of 5 of the draft
24 by DeWarren, please read paragraph 14, the A, B and C.

25 A "A. Contacted" -- off of which form?

1 Q Off the one that I was directing you to, which is
2 the unsigned one --

3 A The unsigned version.

4 Q -- by DeWarren --

5 A 14 A is "Contacted legal?" The checkmark is
6 "Yes." B is "Contacted external regulatory agency?"
7 That checkmark is "Yes." C is "Contacted Employee
8 Concerns?," and that is checked "Yes."

9 Q Okay. And how were those checked in the final
10 draft that was signed?

11 A For 14 A and B they were checked "No," and 14 C it
12 was checked "Yes."

13 Q Okay. Thank you.

14 A So you asked the question earlier if I would've
15 had any reason to believe that Mr. Goforth was being
16 targeted. If you look on page 5 of 5 of the signed
17 version, there's a question on there that -- 17, "Does
18 the individual believe that the proposed action is a
19 result of the individual engaging in a protected
20 activity?" That was checked "Yes." And then
21 specifically, "The individual has had contact with site
22 personnel stating he is being targeted."

23 So, as a result of that statement we would've gone
24 through and had a lot of discussion about how do we
25 mitigate that, conversation around that -- employees, to

1 ensure that we're not going to prevent them -- or not
2 hinder their desire to come forth with concerns. So we
3 would've absolutely talked about this during the meeting.

4 Q Okay. And you've described that again as "we
5 would have" --

6 A We did.

7 Q -- "done these things" --

8 A So I'm saying --

9 Q -- and now you're saying --

10 A -- we would have --

11 Q -- you did?

12 A I'm saying, as before, we went through every
13 question in every ERB, and if there was an off answer,
14 meaning not a routine answer that you would hope for,
15 nothing was -- no protected activity, you wouldn't have
16 discussed it any further. But if you would've got
17 there -- when you did get there and it said yes, this was
18 a protected activity, potential problem, yes, then
19 there's a thing that says yes, explain. And then we
20 would've discussed that, why that was explained -- what
21 that meant, and then what we did with that.

22 So, during this ERB we would've had conversation
23 around why Mr. Goforth was -- felt like he was being
24 targeted.

25 Q Okay. Let's look at the contractor factfinding

1 notes. And those are in the unsigned version, which if
2 you flip to them you'll see factfinding notes. Are you
3 with me?

4 A Yes.

5 Q Okay. And those, I can tell you now, you can
6 look, but they're not on the signed version.

7 A Okay.

8 Q And they did, however, appear immediately -- in
9 the records that TVA produced to us they appeared right
10 before the document that I've given you that's the signed
11 version.

12 A Okay.

13 Q You could say -- read if you will, what's the
14 Bates stamp number page on the first page of the signed
15 copy? It's page number 447, right?

16 A Yes, 447.

17 Q And on the factfinding notes that I'm going to
18 hand you now, it's 445 and 446, right?

19 A 445 and 446. That is correct.

20 Q Okay. So what I'm explaining to you is that when
21 these documents were given to me by TVA, this was at the
22 front of this.

23 A Okay.

24 Q And in the draft that --

25 A DeWarren.

1 Q -- DeWarren did, it was in the back of this.

2 A Okay.

3 Q So, do you recall those factfinding notes having
4 been a part of what's called the ERB package? And I'll
5 tell you they're the same in both copies. You can
6 confirm that for yourself.

7 A I'm just looking at first and second page.
8 (Reviewing documents.) I would've seen these forms, yes.

9 Q Okay. And is that typically -- you talked about
10 what would've happened and what is the typical thing to
11 happen. Are typically these finding notes for contractor
12 only a part of what's called the ERB package?

13 A Without looking at the procedure to validate that,
14 I would say they would be part of that. I say that also
15 with a little reservation, that I looked at a lot of
16 things. Like, I looked at everything, where the ERB
17 may've not been required to look at something.

18 So, I could've seen it very easily, and that
19 doesn't necessarily mean that the ERB would've also seen
20 it.

21 Q Okay. So, tell me what the ERB package is.

22 A If you'll hand me the procedure I'll go through it
23 with you.

24 Q All right. Well, let me show you something else,
25 and it might be helpful to that. I'm going to show you

1 some -- I think I can introduce these. I think I made
2 copies of them.

3 MR. JOHNSON: These, for counsel, are the
4 interrogatory answers by TVA. I don't have a copy to put
5 on the screen. Do you want to get those up, Mike, from
6 your own documents? Or you could just follow along as
7 we're discussing it. But I want to give you a chance to
8 have it in front of you.

9 Mr. Bernier, can you hear me?

10 MR. BERNIER: Yeah. I was on mute. Give me
11 one second. Okay. You're looking at TVA's responses?

12 MR. JOHNSON: Yeah. To interrogatories and
13 requests for production.

14 MR. BERNIER: I've got them.

15 MR. JOHNSON: Are with you, Mr. Lantis?

16 MR. LANTIS: This is Document 29 in the
17 folder?

18 MR. JOHNSON: Well --

19 MR. BERNIER: It is Document 29.

20 MR. JOHNSON: Oh, it is? So I did produce
21 it. Okay. Good. So we're all on the same page and I
22 will now try to bring Mr. Sanders along with us.

23 BY MR. JOHNSON:

24 Q Okay. So I've turned to page 9 of the responses.
25 And I'm specifically referring to interrogatory number 6.

1 And let me preface this for you, Mr. Sanders, that
2 interrogatories are questions that are posed to parties
3 in a lawsuit, and then they are signed under oath. And
4 in this case, Meshelle Augustin signed under oath that
5 these answers were correct and true.

6 A Okay.

7 Q Do you know who Meshelle Augustin is?

8 A I do.

9 Q Who is she?

10 A She's the HR -- she was the HR manager at Watts
11 Bar when I was there. And I assume she's still there,
12 but I don't know.

13 Q Was she a member of the board?

14 A Yes.

15 Q The board for Mr. Goforth?

16 A Correct.

17 Q So she's one of the people who signed on the board
18 findings that we just -- the board report that we just
19 went through?

20 A That's correct.

21 Q Okay. So, looking at the answer to interrogatory
22 6, the question was: "Please identify all documents and
23 things in the ERB package ... as completed by the ERB on
24 Goforth's 2018 termination."

25 And the answer is, beginning at "Subject to and

1 without waiving objections, the term 'ERB package'..."

2 So, could you read that for me? Are you with me, where
3 it starts with the term "ERB package"?

4 A So, "Please identify all documents in the ERB
5 package as described in item 8...? Is that what you want
6 me to read?

7 Q Yeah. Well, when you get down into the answer --
8 there's a bunch of objections first.

9 A There are a bunch of objections.

10 Q Yeah. And then about halfway through the answer
11 it begins with the words "the term 'ERB package'..."

12 A "... the term 'ERB package' is a common term for
13 the form used by the ERB and refers to documents provided
14 to plaintiff's ERB, (the factfinding notes and proposed
15 action review form) and documents prepared during the
16 course of the ERB (the record of action, the SCWE
17 mitigation plan screening, and the safety conscious work
18 environment mitigation plan)."

19 Q Okay. And does that conform to your understanding
20 of what would be typically in the ERB package?

21 A That would be typically in the ERB package. If
22 you want my, you know, "here's my real answer," I'd have
23 to spend time going through the procedure. But that,
24 that seems reasonable that that would be in there.

25 Q All right. And so it's likely that the contractor

1 notes by DeWarren Washington that were in front of the
2 signed ERB package were -- are part of the package?

3 MR. BERNIER: Objection to form.

4 A You're asking me was this, or would it be likely
5 that it would be?

6 Q Well, answer it either way you want.

7 A It -- likely it would've been in the package. Not
8 necessarily, I guess. Like I said, I would want to
9 review the procedure before I made --

10 Q Did you -- do you remember seeing it?

11 A Do I remember seeing this one form? Not
12 specifically.

13 Q Okay. Well, let's go to the second page of it
14 then, please, sir.

15 A But like I said, I also believe I would've saw it.
16 I don't specifically remember seeing it, but I would --

17 Q Thank you.

18 A -- imagine that I saw it.

19 Q Thank you.

20 All right. Look at the section under "If you
21 answer yes to any of the questions below, please provide
22 an explanation." So, what's the first question under
23 that?

24 A "Was the action confirmed to be willful
25 misconduct, intentional or deliberate?"

1 Q And what did the factfinding notes provide as an
2 answer to that?

3 A They said no.

4 Q Okay. So, is it your belief that a document can
5 be falsified without the intention to falsify it?

6 MR. BERNIER: Objection to form.

7 A Yes.

8 Q Okay. Explain.

9 A If I signed -- if I put any information in a
10 document that's incorrect and I submit that document and
11 I sign it and I say here's this document as completed,
12 and I sign it to all be true, and if something in there
13 is not true but to the best of my knowledge it was true,
14 then that is a document that is signed that has
15 information that's not correct.

16 If I knowingly sign a document for something that
17 wasn't done or I know that number is not correct, I put
18 in 5 on a form that I know is not correct because -- for
19 whatever reason, then that's willful falsification of a
20 document.

21 Q Okay. So, let me --

22 A Intent versus, you know -- intent has a lot to do
23 with it, is the way I would see it. Was I intentionally
24 trying not to -- trying to cover something up by putting
25 a 5 in versus what I knew the actual number was, for some

1 different outcome that I was trying to achieve, that
2 would be a willful falsification of documents; versus if
3 I just put 5 on there because I believe 5 to be correct,
4 and I sign for it to be correct, that was just a mistake
5 on my part. That was an error that I made when I was
6 doing the documents, not that I was intentionally doing
7 it.

8 Q So what this factfinding form seems to be saying
9 is that when Mr. Goforth signed the document he signed,
10 it was not willful, intentional or deliberate?

11 A If this was --

12 MR. BERNIER: Objection to form.

13 A If this was the final version that was eventually
14 signed -- because it's not signed in this form, and, you
15 know, I don't know the -- just like if it came with this,
16 the pedigree of the original documents that you handed me
17 that were all signed, that weren't -- that were not true
18 in the end, right? This is the -- this was not the
19 willful intent; this is the I'm taking a run at it and I
20 put 5 on there when it wasn't really the number. So to
21 me, it kind of holds the same lineage of proof, if that
22 makes sense. Right?

23 Just like these documents here that aren't signed
24 and don't have any signature on them, I don't put a lot
25 of validity into them the same as this (indicating).

1 Now, if this was signed and turned over and it said no
2 act of willful misconduct, intentional and deliberate,
3 when that would be what he believed -- DeWarren believed
4 when he did the factfinding. I would say that's true.

5 Q So do you recall looking at something that
6 DeWarren had written, as the factfinding person, that
7 said that it was not deliberate? Do you recall having
8 seen that?

9 A I don't specifically recall looking at either
10 one -- this or a different one. I mean, like I said
11 before, I would assume one of these would've been in the
12 package, the ERB package, and then I would've seen it.
13 But do I specifically remember looking at this one or
14 another one, I don't.

15 Q Thank you. Do you recall ever talking with Paul
16 Simmons about Mr. Goforth's case? He was on the ERB.
17 Can you recall any conversations with him about that?

18 A I do not recall any specific conversations. I
19 know we would've had a conversation, because the -- in
20 the final ERB package there was a checkmark that he had
21 contacted ECP in the last 12 months and that this could
22 potentially be a, you know -- it would be a communication
23 strategy as we went through and developed a mitigation
24 plan.

25 Q Okay. So you don't recall whether you had any

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

ROBERT M. GOFORTH,

Plaintiff,

vs.

TENNESSEE VALLEY AUTHORITY
and DAY & ZIMMERMANN NPS,
INC.,

Defendants.

Case No.: 1:20-cv-254

Chattanooga, Tennessee
August 17, 2021

DEPOSITION OF WALTER LEE SANDERS

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1 A If they lost access for that and if it was -- say
2 it was an instance of something with the NRC or -- any
3 reason at all, they have to go through the process of
4 regaining their access. And that's, that's done. I've
5 seen it done. I've seen people lose access for cause and
6 go through some kind of rehabilitation. Typically that's
7 more often with drugs or alcohol -- alcohol really
8 primarily, and then you can regain access. But if you do
9 not have access to the plant, you can't work there.

10 Q You can't work at the plant or -- well, tell me
11 about this. And this maybe answers the question.
12 Explain the PADS system to us.

13 A So, when you're in the system you either have a
14 green light or a red light for access, you know. So if
15 you're at Watts Bar, you're in the PADS system, and you
16 have all your training up to date, you have -- there's
17 nothing on your record that would prevent it.

18 If you go into -- if you go and you're fired for
19 cause, then they would update PADS to say -- they would
20 say terminated -- and I'm not exactly sure on the
21 verbiage, but essentially what would happen is there
22 would be something in there outlining that you lost
23 access at Watts Bar. I don't know that it would normally
24 go in there and say -- I'm almost certain it wouldn't
25 give a full event of it, you know, the description. It

1 would just say you lost access, most likely.

2 Q Well, so you don't know for sure whether it says
3 lost access for cause or lost access for -- in
4 Mr. Goforth's case, allegedly falsifying a document?
5 Does it say that in the PADS?

6 A I don't know exactly what it says, but I think, I
7 think that it does have some description of -- if you
8 falsify documents -- which is clearly a violation in
9 every place -- that you would be locked out.

10 Q Okay.

11 A I believe that would be the case.

12 Q And who has access to PADS?

13 A Just the site utilities, and maybe INPO.

14 Q So basically, anyone who's running a nuclear power
15 plant in the United States would be able to look and see
16 that a person's clearance was revoked. And I guess the
17 reason for that is so that before making any kind of
18 hiring decisions, they would know that?

19 MR. MEALOR: Objection.

20 A So when you say "anybody," it would be a very,
21 very small group of people. There's -- probably on each
22 site there's probably two to three people that have
23 access into PADS that can look at all of that.

24 And so -- yeah. And so the reason for that is you
25 don't want somebody who has broken the rules or -- and

1 got terminated for cause that would be in -- something
2 that would prevent them from having access at another
3 site to come to your site and all of a sudden gain
4 access. So, if their behavior was inappropriate
5 someplace else, you would know.

6 Now, you can go through and they can go and try to
7 get access at a new site, and if that new site wanted
8 that person because they felt that they were valuable
9 enough, then they could go through the process of trying
10 to reestablish plant access in some cases. In some cases
11 the answer is always no.

12 So if you violate some rules with the NRC,
13 specifically if you fail a drug test, there are periods
14 of time where you are locked out from coming back into
15 nuclear power. And those vary depending on the different
16 circumstances of what you may've...

17 Q Let me just be clear about your answer. My
18 question was really does every nuclear power plant site
19 have access to PADS, even though, as you've stated, it
20 would be a very small number of persons at each site, but
21 it's available to every site that's running a nuclear
22 power plant?

23 MR. MEALOR: Objection.

24 A So, every utility that has a plant. I don't
25 know -- I can't speak to every site. I would imagine

1 every site. But every utility has an organization that
2 oversees access to their facilities.

3 Q Okay. So, your answer is PADS would be available
4 to every utility that operates a nuclear power plant?

5 A In the United States.

6 Q In the United States.

7 A That's correct.

8 Q Got it.

9 So, let me show you this. And it's Document 18.
10 I think this is just showing some of what you have
11 already told us.

12 This is as of June of 2017. Is that within the
13 framework of time that you came to Watts Bar?

14 A Yes.

15 Q So would this be accurate, what it states there,
16 that Paul Simmons was the VP for Watts Bar Nuclear Plant,
17 which you've already testified to, but those folks above
18 that, two of those positions were vacant and one was held
19 by Jennifer Affholder? But she's only --

20 A She is executive assistant.

21 Q Right. So, did somebody eventually get that job
22 as senior vice president of operations?

23 A Oh, yeah. Yes.

24 Q Who was it?

25 A Well -- so this was '17. So, I think -- I

1 wouldn't be able to answer for sure. I don't remember
2 who took the job before or after this.

3 Q That's fine. We don't need to probe any further
4 on that.

5 Look at the second page of it then.

6 A Okay.

7 Q So, that page shows you, right?

8 A It does.

9 Q And this is as of November 2, 2018. And it shows
10 you as director of plant support. And that's, according
11 to your testimony, I think the only position that you
12 held there at Watts Bar when you came over?

13 A Other than when I was there from -- I was in a
14 corporate role. But yes, this is my only direct spot on
15 the Watts Bar org chart.

16 Q Okay. And you've described to us what your duties
17 were in that role?

18 A Yes.

19 Q And so you reported directly to Paul Simmons?

20 A That is correct.

21 Q So what was your frequency of interaction --

22 Well, before we do that, let's mark this one as
23 15.

24 (Exhibit 15 was marked for identification.)

25 BY MR. JOHNSON:

1 Q So what was the frequency of your interaction with
2 Mr. Simmons during 2017 and '18 while you and he were
3 both at the plant?

4 And maybe I should clarify first. Are you still
5 there, in that role?

6 A No. I retired about two and a half years ago.

7 Q Oh, I see. What would've been the date of your
8 retirement? That might stick in your mind.

9 A It does. I think it was April 1st, '18? '19?
10 I'm trying to figure out -- I've been out two and a half
11 years.

12 Q That would be two and half years.

13 A '19, yeah. April '19.

14 Q Okay. So, during that time period, between when
15 you took on that role at Watts Bar and when you retired,
16 what was your frequency of interaction with Mr. Simmons?

17 MR. MEALOR: Objection.

18 A It would depend. I mean, you know, if we were
19 both on site, then I would see him every day. If we
20 weren't on site, then I may not see him. But we had
21 frequent and steady interactions.

22 Q Got it. This may be a difficult question to
23 answer. But sort of what was the day like for you and
24 Paul Simmons? I mean, what was -- what were y'all doing
25 up there at the plant --

1 things that you were talking about in your role as
2 support person, and I guess the role -- the corporate
3 role that you had involved with Watts Bar when they were
4 having these issues. I want to get into some
5 discussion --

6 A Sure.

7 Q -- of that, because that's what I think has
8 pertinence perhaps to this case.

9 A Okay.

10 Q So, this is Document 27. Take a look at that.
11 And it's a long document, but it's one I'm guessing
12 you're familiar with. So if you can just identify
13 whether this is a document you're familiar with, that
14 would be helpful.

15 A Okay. (Reviewing document.) Yes, I am familiar
16 with the confirmatory order.

17 Q Okay. And so that order, which is formally called
18 EA-17-022, is a confirmatory order issued by the NRC,
19 correct?

20 A That is correct.

21 Q And so we're going to just use a few pages from
22 this, so try to follow me here. If you would look at the
23 second page, please, sir.

24 A Sure.

25 Q It says that there was a previously issued

1 confirmatory order, EA-09-009, dated December 22, 2009;
2 is that correct?

3 A It does say that.

4 Q Are you familiar with EA-09?

5 A I am familiar in that -- I do know some of what
6 happened. I didn't, I didn't deal in the response
7 necessarily. And at that point I was much, I was much
8 more junior in the organization, so I didn't have any
9 involvement at the time when this was issued. But I am
10 familiar based on why we ended up with this, and the
11 compounding effect of the '09 order and what that meant
12 to this.

13 Q I see. So, you were aware at least that the '09
14 order regarded the same kind of issues as the '17 order,
15 and the '17 order was a follow-up to that?

16 A That's right.

17 Q Okay. So, let me just read for you in that
18 indented paragraph there, which kind of summarizes -- is
19 a summarization of the '09 order.

20 It says: "Confirmatory order modifying license,
21 dated December 22, 2009, states, in part, that by no
22 later than 90 calendar days after the issuance of this
23 confirmatory order, TVA shall implement a process to
24 review proposed licensee adverse employment action at
25 TVA's nuclear plants before actions are taken to

1 determine whether the proposed action comports with
2 employee protection regulations."

3 Does that conform with what your understanding of
4 the '09 was about, as is recited here in the '07 -- the
5 '17 order?

6 A So, I would say definitely for the '17 order. I
7 think the '09 order, I think that TVA probably did not
8 get that right and fully implemented; otherwise, we
9 would've not been sitting with this new order in '17.

10 So, in '09, the way I understand it is that there
11 were some people that were terminated and that the NRC
12 came back and said they believed they were terminated
13 based on raising some concerns, and so the TVA did
14 retaliate, is the way I understand it from that piece.

15 And so in the '17 order, we had to go through and
16 make sure that we protected people's rights to raise
17 issues in a safety consciousness work environment space
18 without having a chilling effect based on that. And that
19 was our primary responsibility in response to this order.

20 Q So the '17 order was the second time that this had
21 occurred to TVA regarding making sure that adverse
22 employment actions were not being taken for reporting
23 safety issues?

24 A Correct.

25 Q And when it talks about employee protection

1 regulations there at the end of the part that I just read
2 to you, that would refer, would it not, to the protection
3 regulations in 10 CFR 50.7? I imagine that's a number
4 you're familiar with?

5 MR. MEALOR: Objection.

6 A I am familiar with it in that -- I would have to
7 go back and look. But yes, in the sense that it is
8 protections just as a normal ability for workers to raise
9 any kind of safety concern without fear of retaliation.

10 Q Sure. And Section 50.7, is that something people
11 kind of know, well, that's the NRC reg that says that we
12 can't retaliate against people who --

13 A When you say --

14 Q -- report --

15 A -- "people" would know that, I would say probably
16 not a lot of people. I would think people that were
17 specifically in this work might know that. But the
18 average worker --

19 Q Oh, sure.

20 A -- by far would not have any idea what that means.

21 Q But somebody like you and somebody like
22 Mr. Simmons would know what that is?

23 A For me I would say yes, and I would assume he
24 would also.

25 Q Okay.

1 A And to be clear, the NRC said to us that -- the
2 second time around, what they told us is that we failed
3 to implement a process to verify these people were
4 protected in the '09 order. So the way I remember it or
5 the way I understood it in the '09, they said, you know,
6 we'll do some training and we'll do this, but we didn't
7 implement a process that the NRC felt like met all the
8 wickets and it had all the things in there in order to
9 prevent that, by their -- what their internal
10 understanding of what would happen versus what actually
11 happened.

12 Q And did not the cause of that issue arising, again
13 for NRC, wasn't it prompted by other employees who had
14 made complaints, that they found to have valid complaints
15 about that?

16 MR. LANTIS: Objection to form.

17 A So, I, I -- honestly, I don't know that I could
18 say that. What I would say is I think that the NRC, with
19 Watts Bar 2 coming on and with all the things that went
20 on with that, just the general work environment is what
21 ended up leading to this.

22 Q Okay. Well, in any case, let's look at page 3.
23 Well, let me ask this first. If it didn't come to NRC's
24 attention, the -- let's call it noncompliance with their,
25 NRC's, understanding of the '09 confirmatory order, if

1 REPORTER'S CERTIFICATE

2 STATE OF TENNESSEE:

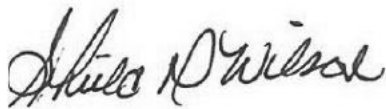
3 COUNTY OF HAMILTON:

4 I, Sheila D. Wilson, Licensed Court Reporter #268
5 and Notary Public, in and for the State of Tennessee, do
6 hereby certify that the deposition of WALTER LEE SANDERS
7 was reported by me, and that the foregoing 132 pages of
8 the transcript is a true and accurate record to the best
9 of my knowledge, skills, and ability.

10 I further certify that I am not related to nor an
11 employee of counsel or any of the parties to the action,
12 nor am I in any way financially interested in the outcome
13 of this case.

14 I further certify that I am duly licensed by the
15 Tennessee Board of Court Reporting, as evidenced by the
16 LCR number and expiration date following my name below.

17 In witness whereof, I have hereunto set my hand
18 this 20th day of September 2021.

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26 Sheila D. Wilson, LCR #268
27 Expiration date: 6/30/2022.
28 Notary Public Commission
29 Expires: 1/25/2023.

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TENNESSEE
3 AT CHATTANOOGA

4 ROBERT M. GOFORTH,
5 Plaintiff,

6 vs.

Case No: 1:20-cv-254

7 TENNESSEE VALLEY AUTHORITY
8 and DAY & ZIMMERMANN NPS,
9 INC.

10 Defendants.

11 Chattanooga, Tennessee
12 September 15, 2021

13 DEPOSITION OF MESHELLE AUGUSTIN

14 APPEARANCES:

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1 you, Mike.

2 BY MR. JOHNSON:

3 Q. I'm not trying to get at any privileged
4 information, so don't tell me about communications
5 with TVA counsel, but let me ask the question again.

6 Would your -- do you recall exercising your
7 duties, advisory, and as you earlier described them,
8 to others at TVA, aside from the lawyers, regarding
9 that 2017 non-selection by Mr. Goforth?

10 A. No.

11 Q. Are you just not remembering, or are you
12 saying that you didn't do that?

13 A. I didn't do any advisory with it because the
14 decision had already been made related to the
15 selection, and it was just brought to my awareness
16 that there had been a non-select claim related to the
17 position or the position he had applied for.

18 Q. So at some point in either 2017 or 2018, you
19 became aware that that non-selection issue was in
20 litigation?

21 A. I don't even believe I knew that it was in
22 litigation. I just knew that there had been a
23 complaint regarding it.

24 Q. Were you aware that the complaint included
25 veteran's preference and also retaliation for

1 protected activity?

2 A. I was aware that there was a vet preference
3 element to it. I was not aware of any protected
4 activity.

5 Q. Did anyone, at any time, share any documents
6 with you regarding the complaint that he had filed?

7 A. No.

8 MR. BERNIER: Same objection here. Okay.
9 Let me say this again, Meshelle. If any lawyers gave
10 you any documents, let's not talk about those, and if
11 anything comes up like that, just say, I might need
12 to talk with Mike, or something like that.

13 MR. JOHNSON: Well, Mike, can we put a
14 little bit of a finer spin on that? I'm not asking
15 you what any documents were. I'm just asking if
16 anyone, including lawyers, shared any documents with
17 you about that complaint.

18 MR. BERNIER: That's fine.

19 THE WITNESS: And the answer to that is
20 no.

21 BY MR. JOHNSON:

22 Q. I'm sorry. I couldn't hear the answer.

23 A. The answer to that is no.

24 Q. So you talked about ERB being part of your
25 duties while you were at Watts Bar. So who's

1 responsible for creating ERB packages pre the actual
2 ERB meeting?

3 A. The responsible manager or supervisor is
4 responsible for putting the package together.

5 Q. I see. And with whom, if anyone, at TVA does
6 that responsible manager communicate in an advisory
7 capacity?

8 A. Will you repeat that, Jim? You broke up at
9 the beginning of that question.

10 Q. Yeah, maybe I can ask that in a way that's a
11 little bit clearer.

12 Is any particular person tasked with giving
13 advice to the managers, as you just identified, in
14 preparing that ERB package pre-ERB meeting?

15 A. The director of plant support owns the
16 process for the ERB, so they can provide information
17 and advice relative to the package. And then HR for
18 TVA situations, TVA employees, we may be asked to
19 review it in advance and provide feedback as well.
20 But the overall responsibility is with the director
21 of plant support.

22 Q. So to attach names to what you've just
23 described, that first position, the plant support,
24 that would have been Mr. Sanders on Mr. Goforth's
25 ERB?

1 A. That's correct.

2 Q. And --

3 A. Oh, actually, Lee was the director of plant
4 support, but -- so he was involved with that, but for
5 some reason I think he was out of the office for a
6 part of the time that that package was being prepped,
7 and Kim Hulvey assisted with some of the review.

8 Q. Okay. So would I be correct saying that
9 Kim Hulvey was involved for a time when Mr. Sanders
10 was out, but then when Mr. Sanders returned, he
11 re-assumed that duty?

12 A. That's correct.

13 Q. And that would be with respect to
14 Mr. Goforth's ERB package pre-meeting?

15 A. That would -- yes, it would have been for the
16 readiness of the actual ERB for the actual board, the
17 prep associated with the package.

18 Q. Right. And then the other position I think
19 you identified as assisting with the ERB package
20 pre-meeting was HR. And so would that have been you
21 for this ERB for Mr. Goforth?

22 A. Yes.

23 Q. Who then becomes responsible for maintaining
24 ERB packages once the ERB is over with?

25 A. So after the ERB is complete, the paperwork

1 is all signed off and all actions are completed, HR
2 has the responsibilities for recordkeeping.

3 Q. And how long are those records maintained?

4 A. How long are they maintained?

5 Q. Yes, ma'am.

6 A. I can't tell you. I don't know off the top
7 of my head. I know it's relatively long term, but I
8 don't know exactly how many years they're maintained.

9 Q. Okay. So for purposes of Mr. Goforth's
10 position, if his ERB was in late 2017, all of those
11 documents should be in HR TVA --

12 A. The ERB package --

13 Q. Right.

14 A. -- whatever was part of that package, would
15 be retained as part of the recordkeeping.

16 Q. Okay.

17 MR. JOHNSON: Counsel, we're going to be
18 looking at Document 1, and that's for you also,
19 Ms. Augustin. If you would look at your Document 1,
20 please.

21 THE WITNESS: Okay.

22 BY MR. JOHNSON:

23 Q. And that document appears on its face to be
24 Defendant TVA's Responses to Plaintiff's First Set of
25 Interrogatories and Request for Production. Are you

1 with me on the same document? If you look at the
2 title of the document.

3 A. Yes. It says, U.S. District Court,
4 et cetera, Chattanooga, Goforth, DZ -- or Tennessee
5 Valley Authority and DZ. And then off to the right
6 it says, 1:20-cv-254.

7 Q. Yes. And in the title of the document is
8 Defendant TVA's Responses to Plaintiff's First Set of
9 Interrogatories and Request for Production.

10 A. Yes.

11 Q. That's the title you're seeing?

12 A. Correct.

13 Q. Okay. Great, we're on the same page. And I
14 would ask you to turn to Page 20 of that document.
15 Well, let's make it Page 21. Page 21.

16 A. Okay, I am there.

17 Q. Okay. At the top of that Page 21, are you
18 seeing in bold capitals the word, "response:"?

19 A. Yes.

20 Q. Okay. And then third line down -- there's
21 some objections made, but the third line down, I'm
22 going to read some language to you, and you tell me
23 whether you're following me with that language. The
24 third line down. Okay?

25 A. Okay.

1 Q. "TVA will produce documents demonstrating
2 that Goforth was a staff augmentation contractor when
3 working on the tritium project, but was working in a
4 managed task role when he was working at Watts Barr
5 in 2018." Are you with me?

6 A. Yes, I see that language.

7 Q. Okay. And so this document was provided to
8 us by and signed by TVA counsel as being TVA's
9 responses to questions that we -- or documents that
10 we requested. And so just having seen that, and you
11 can look at it again, the words I read, would you
12 agree with that statement?

13 MR. BERNIER: Object to the form, but,
14 Meshelle, you can answer.

15 MR. JOHNSON: Yeah, Ms. Augustin, you'll
16 hear objections being made, and unless Mr. Bernier
17 instructs you not to answer, those objections are for
18 the record, and you can ignore them and proceed.
19 They're important for the lawyers, but they're not
20 important for you, unless you're instructed not to
21 answer.

22 BY MR. JOHNSON:

23 Q. So would you then, to repeat the question,
24 agree with me that that is a correct statement, the
25 language that I read to you?

1 BY MR. JOHNSON:

2 Q. Okay. So we're now to Document 3. And thank
3 you for that reminder, Mr. Bernier. Are you with me
4 in Document 3, Counsel and Ms. Augustin?

5 A. I am.

6 MR. BERNIER: Yes.

7 BY MR. JOHNSON:

8 Q. Okay. And this is Exhibit 27 to the
9 complaint, so I won't be readmitting it for counsel's
10 purposes. So I'm going to ask you, please,
11 Ms. Augustin, to go to Page 19.

12 A. I am on Page 19.

13 Q. Okay. Are you showing the word
14 "verification" at the top and then your signature
15 after the verification?

16 A. I am.

17 Q. Okay. And is that your signature?

18 A. It is.

19 Q. And it says -- and I'm just going to read it
20 for you for brevity purposes -- "I have read the
21 foregoing responses to Plaintiff's First Set of
22 Interrogatories, and I verify the answers to
23 interrogatories are true and correct to the best of
24 my knowledge, information, and belief." Signed
25 April 1, 2021.

1 So when you signed this document, were you
2 verifying that the answers were true and correct to
3 the best of your knowledge, information, and belief?

4 A. I was.

5 Q. And were you aware that that was under
6 penalty of perjury, as it states in the first
7 sentence there?

8 A. Yes.

9 Q. Okay. So let's go to Page 7 then, please,
10 ma'am.

11 A. Okay.

12 Q. And let's look where it says, "Interrogatory
13 Number 1."

14 A. Okay.

15 Q. And there's a couple of sentences there of
16 objections, which we can ignore, and then let's begin
17 with the words, "DeWarren Washington." Are you with
18 me?

19 A. Yes.

20 Q. Okay. Would you like to read, please,
21 beginning with the words, "DeWarren Washington," and
22 ending with the end of that paragraph.

23 A. "DeWarren Washington, a DZ employee, appears
24 to have made the decision to terminate Plaintiff.

25 TVA convened an Executive Review Board (ERB) to

1 consider whether the contractor's employment action,
2 despite its legitimacy, could be perceived by some of
3 the workforce as in retaliation for raising safety
4 issues, and, if so, actions to mitigate any negative
5 effect of the decision on the workforce. The members
6 of the ERB are identified in response to
7 Interrogatory Number 3."

8 Q. Okay. So is this a correct statement of what
9 ERBs are supposed to do?

10 A. So the basis of an ERB is to look at the
11 safety conscious work environment impact. So as it
12 states here, it talks about, you know, if an
13 employment action is taken, whether it's -- despite
14 its legitimacy, it can be concerned as having a
15 retaliation for raising safety concerns. So ERBs
16 will look at the impact on a safety conscious work
17 environment, and then they look at ways in which we
18 can mitigate that effect. So what the action is and
19 what the effect is, is part of the ERB.

20 The other piece of ERB is to look at
21 similarly situated events and what employment actions
22 were taken in those similarly situated events from a
23 consistency perspective.

24 Q. So I take it your answer then is that this
25 answer that was -- that you signed and was provided

1 is a correct answer?

2 A. Correct.

3 Q. Okay. And it appears to me by those words,
4 "despite its legitimacy" -- I'm just trying to
5 characterize what you said -- that the ERB's concern
6 is with perceptions of the workforce, and then
7 mitigating any perceptions, and that you just assume
8 that the decision made by the contractor was
9 legitimate?

10 A. Right. In this case because it's a
11 contractor, TVA would not make an employment decision
12 related to their employment status.

13 Q. Okay. So let's look now, please, at
14 Interrogatory 2, which is also on Page 7. And
15 there's some objections there, which we'll skip over.
16 Let's go to the next page, Page 8. And would you,
17 please, read, beginning with the words, "TVA is
18 aware," and read to the end.

19 A. "TVA is aware of an investigation by Freddie
20 Gibson, a DZ employee, into the unsecured manway
21 cover incident that led to Plaintiff's termination,
22 and an interview of Plaintiff related to that same
23 incident by John Reeves, another DZ employee. Aside
24 from Gibson, Reeves, and Washington (see response to
25 Interrogatory Number 1), TVA is aware of no

1 additional person(s) with input or influence on the
2 decision to terminate Goforth."

3 Q. All right. And so my question to you, and I
4 think I know the answer based on your previous answer
5 to questions from the prior interrogatory, but I take
6 it you did not interview Freddie Gibson?

7 A. No, I did not interview Freddie Gibson.

8 Q. And you did not interview John Reeves?

9 A. No, I did not.

10 Q. Did John Reeves ever tell you or the ERB that
11 Mr. Goforth said that he had engaged in protected
12 activity in his --

13 MR. BERNIER: Object to the form.

14 Q. -- in his interview of Mr. Goforth?

15 A. Repeat that question, please.

16 Q. Did Mr. Reeves ever tell you -- let's just
17 confine it to you to begin with. Did Mr. Reeves ever
18 tell you that Mr. Goforth had told him, during his
19 interview of Mr. Goforth, that Mr. Goforth had
20 engaged in protected activity?

21 A. I don't have any recall of that, but I'm not
22 even sure I ever talked with John Reeves.

23 Q. Okay. Did John Reeves attend the ERB
24 meeting?

25 A. I would have to look at the ERB package to

1 answer that. I don't recall who all was at that. I
2 don't recall who was there, besides DeWarren.

3 Q. Okay. And so do you recall John Reeves or
4 anyone else saying at the ERB meeting that
5 Mr. Goforth had told Mr. Reeves, in his interview by
6 Mr. Reeves, that he had engaged in protected
7 activity?

8 MS. LINDGREN: Object to the form.

9 MR. BERNIER: Object to the form. You
10 can answer.

11 BY MR. JOHNSON:

12 Q. Do you understand the question?

13 A. I think I understand the question, but
14 verbally I don't have any recall of that. But in the
15 ERB package itself, there is a question related to --
16 or a couple of questions regarding contact with ECP
17 and contact -- or writing condition report. And one
18 of those two led to awareness from an ERB perspective
19 that Goforth may have been involved in protected
20 activity because we look at condition reports as a
21 protected activity.

22 Q. Understood. And so what I'm asking is, did
23 anyone say at the ERB meeting that Mr. Goforth had
24 told Mr. Reeves that he had engaged in protected
25 activity?

1 A. I do not recall anyone stating that.

2 Q. Do you recall whether anyone, including
3 Mr. Reeves, told you that Mr. Goforth had said other
4 workers who did what he was accused of were not
5 disciplined?

6 MS. LINDGREN: Object to the form.

7 MR. BERNIER: Object to the form.

8 THE WITNESS: Repeat that question,
9 please.

10 BY MR. JOHNSON:

11 Q. Do you recall at the ERB meeting, or any time
12 before Mr. Goforth was fired, whether Mr. Reeves told
13 you or the ERB that Mr. Goforth had said other
14 workers who did what he did were not being
15 disciplined?

16 MR. BERNIER: Same objection.

17 MS. LINDGREN: Same.

18 THE WITNESS: I have no recall of that,
19 and I don't recall even talking to Mr. Reeves.

20 BY MR. JOHNSON:

21 Q. Okay. So I take it, then, whether
22 Mr. Goforth -- whether Mr. Reeves told you or the ERB
23 that Mr. Goforth had mentioned ice condenser workers
24 doing the same thing is not something you would
25 recall either?

1 MS. LINDGREN: Object to the form.

2 THE WITNESS: I have no recall of that,
3 having any conversation.

4 BY MR. JOHNSON:

5 Q. So in Interrogatory 3, it -- if we look at
6 the response to that, the last sentence, are you with
7 me when I'm reading that the ERB members included
8 Meshelle Augustin, Lee Sanders, DeWarren Washington
9 (contractor representative), Ryan Dreke -- I'm not
10 sure I'm saying that right -- and Paul Simmons?

11 Do you recall that those were the members of
12 Mr. Goforth's ERB?

13 A. I do.

14 Q. Do you recall whether all of those members
15 were attending in person to the ERB meeting on
16 Mr. Goforth's termination?

17 A. I believe we were all in person.

18 Q. Do you recall anyone else attending --

19 A. I do not.

20 Q. -- besides the ERB members?

21 A. I do not recall anyone else in attendance.

22 Q. So I take it if we move to Page 9 -- and
23 let's look at Interrogatory 5.

24 A. Okay.

25 Q. The question there, Interrogatory 5 -- and to

1 of action by the ERB.

2 A. Yes.

3 Q. Are you with me?

4 A. Okay. Yup.

5 Q. And that gives what date as the date the ERB
6 convened?

7 A. November 21, 2018.

8 Q. And, again, this e-mail forwarding the ERB
9 package is dated November 29, 2018; correct?

10 A. Correct.

11 Q. Okay. And it's saying the ERB convened at
12 12:30 and concluded at 1:00.

13 A. Yes.

14 Q. Is it consistent with your memory of the
15 meeting that it took place in approximately
16 30 minutes?

17 A. That's consistent with my memory, as well as
18 it's consistent with how long ERBs typically take.
19 Somewhere between 15 to 30 minutes, depending on the
20 issue.

21 Q. Okay. So this, then, would be the ERB
22 package as completed following the meeting; am I
23 correct?

24 A. It appears to be that.

25 Q. Okay. Let's go to Page 10.

1 A. Okay.

2 Q. And we might ought to -- we might ought to
3 read beginning on Page 9 what that interrogatory is
4 asking for because it's not perfectly evident in the
5 answer. So do you mind if I read that for you? It's
6 Interrogatory 7, beginning on Page 9, and I'll read
7 it for brevity purposes. "Please identify any of
8 your policies or procedures, unwritten or written
9 (for written policies and procedures please identify
10 by policy title and number), you contend support the
11 termination of Goforth. You may provide a copy of
12 the policies as part of your answer, but please be
13 sure the answer is complete, and please specify which
14 documents you produce are responsive to this
15 interrogatory."

16 And then, now, looking at the answer, we'll
17 skip over the objections, and then in the last line
18 just read me what it says there with -- after the
19 objections where it says, "see the fact-finding
20 notes."

21 A. So which document are you in? I was still in
22 Document 9. Did you switch?

23 Q. I'm sorry. We're back to Document 3. I'm
24 sorry.

25 A. That's all right. Let me catch up with you.

1 Q. We're back to Document 3, Page 9. This is
2 much easier when we're sitting across the table from
3 one another.

4 A. Understood.

5 Q. But I think we're doing pretty well.

6 A. You're in Interrogatory 7. Tell me where you
7 want to --

8 Q. I just read Interrogatory 7, and so now I'm
9 looking at the response on Page 10.

10 A. Okay. You want me to start at the beginning
11 of the answer?

12 Q. No. There's a bunch of objections there, and
13 those end in the last line, and so I just need you to
14 read where it begins, "see the fact-finding notes."

15 A. So "see fact-finding notes submitted to TVA's
16 ERB."

17 Q. Correct. Thank you. Let's take a look at
18 Document 6 now, and I'll try to remind you when we go
19 back to Document 3 because we will be, but let's take
20 a look at Document 6.

21 A. Okay. I'm there.

22 Q. So let me find the page I would like you to
23 go to, but let's identify it first. And this is
24 Exhibit 23, so I won't be resubmitting it.

25 MR. JOHNSON: And by the way, for the

1 record, let's make Document 9 exhibit -- that we just
2 went over together, let's make Document 9 Exhibit 66.

3 (Document was marked for identification
4 as Exhibit Number 66.)

5 BY MR. JOHNSON:

6 Q. So getting back to Document 6, that's been
7 previously identified as Exhibit 23, and that appears
8 on its face to be an e-mail from DeWarren Washington
9 dated November 6, 2018, to Rebecca Rogers, with a
10 copy to Kimberly Hulvey, who you've previously
11 identified, Mr. Sanders, who you've previously
12 identified, Alan Anthony White, John Reeves, and
13 Jason Howard. And are you with me?

14 A. Yes.

15 Q. Okay. And it says, does it not, "Becca, I
16 think this is everything you will need for the ERB."
17 And then it's consistent with what you said earlier,
18 "Also, Lee Sanders is on vacation, so Kim Hulvey is
19 filling in for him." That's what this e-mail says;
20 correct?

21 A. Correct.

22 MR. BERNIER: Jim, I'm going to object to
23 questions regarding this document. It doesn't appear
24 that Ms. Augustin received it.

25 MR. JOHNSON: Yes. I'm just asking her

1 to identify what it appears to be.

2 MR. BERNIER: Sure.

3 THE WITNESS: It appears to be what you
4 described, Jim.

5 BY MR. JOHNSON:

6 Q. Okay. And I think we'll clear up
7 Mr. Bernier's concerns about this with our next
8 exhibit, but for now, let's take a look at -- well,
9 it might be helpful to put the next exhibit in, just
10 to clear that point up while we're at it. Take a
11 look at Document 7 for a moment.

12 A. Okay.

13 Q. And that appears on its face to be a document
14 from Ms. Hulvey to DeWarren Washington, also dated
15 November the 6th, 2018, like Mr. Washington's e-mail
16 was; correct?

17 A. I don't remember the date on Document 6, but
18 if that's what it was, then that's correct.

19 Q. Okay. So this document is Ms. Hulvey
20 forwarding some comments that you made also on -- I'm
21 trying to see a date on that prior one. It doesn't
22 give a date on your e-mail, but the date that your
23 e-mail was forwarded to Mr. Washington by Ms. Hulvey
24 is November the 6th.

25 So is that your e-mail to Ms. Hulvey on

1 November the 6th of 2018 that's shown part way down?

2 A. Yes.

3 Q. Okay. And it's commenting, is it not, on
4 Mr. Washington's draft of the documents that were
5 shown in the subject line?

6 A. That is correct.

7 Q. Okay. So going back now to Document 6. Are
8 you with me?

9 A. Okay, yup.

10 Q. And that's dated November 6, 2018. As you
11 can tell, slightly earlier than your e-mail in
12 Document 7?

13 A. Sorry, I don't know what the date was on my
14 e-mail. I just know what date and time Kim forwarded
15 it.

16 Q. Okay. But this -- this appears to be the
17 documents in Document 6 that you were commenting on
18 in Document 7; correct?

19 MR. BERNIER: Object to the form.

20 THE WITNESS: Can I scroll through them
21 quickly, just to confirm that?

22 BY MR. JOHNSON:

23 Q. Sure.

24 A. Yeah, Document 6 appears to align with my
25 comments that I noted in Number 7.

1 MR. JOHNSON: And so did we ever get an
2 answer to the question about when I asked if she had
3 ever talked to Mr. Slater about the litigation? I
4 know you made the objection and we dealt with that a
5 little bit in exchange. Did she answer that
6 question? I'll just pose it again.

7 BY MR. JOHNSON:

8 Q. Did you ask Mr. Slater about the litigation
9 that you were aware of?

10 A. I did not.

11 Q. Okay. All right. Let's look at Document 9
12 again for a moment, please, ma'am.

13 A. Okay.

14 Q. And let's look at the last page of that
15 document.

16 A. Okay.

17 Q. And the last page is called, "Executive
18 Review Board record of action"; correct?

19 A. Correct.

20 Q. And there is a block checked there that says,
21 "The ERB does not object to the proposed employment
22 action." Am I reading that correctly?

23 A. You are.

24 Q. And the contractor cannot go forward with the
25 termination without that finding that the ERB does

1 not object to the employment action; correct?

2 A. That is correct.

3 MS. LINDGREN: Object to the form.

4 MR. BERNIER: Object to the form, too.

5 BY MR. JOHNSON:

6 Q. All right. We will go back, again, to
7 Document 3.

8 A. Okay.

9 Q. I'm sorry. Before we get off of Document 7,
10 let's address that a little bit more. Let's go to
11 Document 7 again first.

12 A. Okay, I'm on Document 7.

13 Q. Okay. And on that first page, look under
14 fact-finding, and it says, does it not, under
15 fact-finding, the second sentence, "need to list
16 similar offenses and actions DZ took for those
17 similar situations"?

18 A. It does say that.

19 Q. Okay. And do you recall any discussion at
20 the ERB meeting about any similar offenses and
21 actions DZ took for the similar situations?

22 A. I'd have to look at the ERB package again.
23 Nothing readily comes to mind.

24 Q. Okay. That's in Document 9, if you want to
25 take a look.

1 A. Hang on a second. So the examples in
2 Document 9, and that would be Page 8 is what I'm
3 looking at, it's a TVA example for falsification of
4 records. Well, actually, I said TVA, but I'm not
5 really sure it's TVA or not. It says the location is
6 Sequoyah, so it could have been a DZ employee at
7 Sequoyah that was terminated for falsification of
8 records.

9 Q. Where are we now?

10 A. I am in Document 9, Page 8.

11 Q. Page 8. All right. Let me count.

12 A. The top of it says, "fact-finding notes
13 contractor only."

14 MR. BERNIER: And this is TVA Form 41664,
15 Page 1 of 2.

16 THE WITNESS: So I would look at this,
17 since DZ completed this form, that their similar
18 offense was in March of 2018. They had a termination
19 and the location was Sequoyah, and it was for
20 falsification of records.

21 BY MR. JOHNSON:

22 Q. Do you recall any discussion of that?

23 A. I do not recall any discussion.

24 Q. Do you recall whether anyone -- well, let me
25 ask it this way: Do you recall whether anyone talked

1 to Mr. -- said that they had talked to Mr. Goforth
2 about the issue of similar conduct by other employees
3 that were not terminated?

4 MS. LINDGREN: Objection to form.

5 THE WITNESS: Are you asking me if I know
6 if anybody talked to Goforth about similar
7 situations?

8 BY MR. JOHNSON:

9 Q. Yeah, I'm asking if at the ERB meeting there
10 was any discussion of what Goforth said about whether
11 other employees had not been given similar discipline
12 who did the same thing.

13 MS. LINDGREN: Objection to form.

14 MR. BERNIER: Object to the form.

15 THE WITNESS: I don't have any recall of
16 anybody sharing anything regarding Mr. Goforth's
17 making reference to other incidents. We would have
18 looked at the package and seen that there was a
19 similar event related to falsification of records and
20 the action that was taken.

21 BY MR. JOHNSON:

22 Q. All right. Let's go back to Document 3.

23 A. Okay. I'm in Document 3.

24 Q. Okay. I'm aware. I'm just trying to get
25 organized here.

1 A. Okay.

2 Q. Okay. Let's look at Interrogatory 9.

3 A. Okay.

4 Q. And the answer to that on Page 11.

5 A. Okay.

6 Q. And following the objections, let's read from
7 about halfway down where the objections end, where it
8 says, "The ERB is not a part of." Can you read the
9 rest of that --

10 A. "The ERB" --

11 Q. Go ahead.

12 A. "The ERB is not a part of the disciplinary
13 decision-making process for TVA employees or
14 contractors. It is a regulatory review and advisory
15 process, required as a condition of TVA's NRC-issued
16 operating licenses. It does not undertake
17 investigations, conduct interviews, or invite
18 participation.

19 "Further, Plaintiff's ERB did not make or
20 participate in the decision to terminate his
21 employment, nor did it conduct any investigation.
22 See response to Interrogatory Number 3. Subject to
23 and without waiving the above-stated objections, see
24 responses to Interrogatory Numbers 1 through 8."

25 Q. So again -- and I think this was consistent

1 with what you testified to previously -- the ERB
2 process is just to determine whether safety conscious
3 work environment mitigating measures are required,
4 and it's -- whether the contractor was correct or not
5 in the findings for a termination is not what the ERB
6 does?

7 MS. LINDGREN: I'm going to object to the
8 form.

9 THE WITNESS: The purpose of the ERB is
10 to look at the impact on safety conscious work
11 environment and consistency of actions, but not to
12 make decisions for the contractor relative to
13 employment actions.

14 BY MR. JOHNSON:

15 Q. Okay. Let's take a look now at -- back to
16 Document 2.

17 A. Okay.

18 Q. And if you're with me, you're seeing this as
19 TVA's answer to Mr. Goforth's complaint in the
20 present case. So the document is titled, "Answer to
21 Complaint." Do you see that?

22 A. I do.

23 Q. And so if you go to Item Number 27, which is
24 on Page 4, that's where I am.

25 A. Page 4, Item 27. Okay.

1 Q. Okay. And this is, as I -- let's -- let's go
2 ahead and read that Paragraph 27.

3 A. "TVA admits that the reviews established in
4 the NRC confirmatory order do not evaluate
5 investigations into employees' actions, nor do they
6 access the merits of the disciplinary decision unless
7 there is an indication of whistleblower retaliation.
8 The NRC instead charges TVA with reviewing the
9 potential effect of the disciplinary action on the
10 safety conscious work environment, SCWE."

11 Q. Let me interrupt you there, Ms. Augustin.
12 I'm sorry, because I know I asked you to read the
13 whole thing, and I apologize for that. But I want to
14 kind of break this down as we go forward.

15 So looking at the first sentence of that
16 where it says, "TVA admits that the reviews
17 established in the NRC confirmatory order do not
18 evaluate investigations into employees' actions, nor
19 do they assess the merits of the disciplinary
20 decision unless there is an indication of
21 whistleblower retaliation," do you agree with that
22 statement that TVA asserted in its answer?

23 MR. BERNIER: I'm going to object to the
24 form. Meshelle has no foundation in TVA's answer to
25 answer specific questions regarding it. But,

1 Meshelle, you can answer.

2 THE WITNESS: I don't have the technical
3 expertise related to the NRC confirmatory order, so I
4 can't really answer that question one way or the
5 other.

6 BY MR. JOHNSON:

7 Q. Well, let's divorce it from the NRC
8 confirmatory order. Is it your understanding of the
9 ERB process that the ERB is not to evaluate
10 investigation and employee's action, or assess the
11 merits of the disciplinary decision, unless there's
12 an indication of whistleblower retaliation?

13 So I'm just --

14 MR. BERNIER: Same objection.

15 MS. LINDGREN: Objection.

16 BY MR. JOHNSON:

17 Q. I'm just asking you whether that's your
18 understanding of what -- do you agree that's what the
19 ERB does?

20 A. Well, my understanding is the ERB is to look
21 at it from a safety conscious work environment and
22 the consistency of the action. So it's phrased
23 differently there. So I'm not comfortable answering
24 it the way it's written.

25 Q. Okay. And so the problem you have is where

1 it says, "unless there's an indication of
2 whistleblower retaliation"?

3 A. Yeah. Again, I'm looking at it from a SCWE
4 mitigation perspective.

5 Q. Okay. And so let's read the next sentence
6 then, please.

7 A. "TVA shall implement a process to review
8 proposed significant adverse employment actions by
9 contractors performing services at TVA's nuclear
10 plant sites before the actions are taken to determine
11 whether the proposed action comports with employee
12 protection regulations, and whether the proposed
13 action could negatively impact the SCWE. Such a
14 process will likewise consider actions to mitigate a
15 potential chilling effect if the employment action,
16 despite its legitimacy, could be perceived as
17 retaliatory by the workforce."

18 Q. Okay. Well, I'm going to break that down a
19 little bit for you and ask you, that this language
20 here seems to describe several things that the ERB is
21 supposed to do; correct?

22 MR. BERNIER: I'm going to object to the
23 form. Same objection as earlier.

24 BY MR. JOHNSON:

25 Q. Well, does it say that the ERB is supposed to

1 now or back when? Can you give a time frame?

2 MR. JOHNSON: Sure.

3 BY MR. JOHNSON:

4 Q. At any time following the denial of
5 Mr. Goforth's access in December of 2018, what he
6 would have to do in order to get his UAA reinstated.

7 A. So if an individual's unescorted access
8 authorization is denied, they have an opportunity to
9 appeal that. The process to appeal a UAA decision is
10 outlined in the letter that they get related to the
11 denial. If it goes through that appeal process and
12 the appeal process does not change that decision,
13 then that individual, depending on the time frame
14 that's identified -- because UAA can be denied from
15 anywhere from, like, one year, I think, to
16 permanently, depending on what the issue is -- they
17 cannot make, I'll call it, "application" for UAA
18 again until that time frame has been exhausted.

19 And then in order to make application for
20 unescorted access, they have to have a position that
21 requires it. So it would either be a position
22 through a contractor, or it would be a position
23 through TVA. And part of that onboarding hiring
24 process is to apply for and obtain unescorted access.

25 Q. Okay. Let me make sure if I'm understanding

1 it, and you tell me whether I'm correct or not.

2 First of all, let's establish that Mr. Goforth's UAA
3 was revoked or denied permanently. Is that what you
4 understand?

5 A. I don't know whether it was a permanent
6 denial or if it had a time on it.

7 Q. Okay. Well, let's assume that it was a
8 permanent denial for purposes of my question. So a
9 person in his position with a permanent denial, if I
10 understand you correctly, has to have a job offer
11 from a contractor before they may initiate a request
12 for a reinstated UAA?

13 MR. BERNIER: Object to the form.

14 MS. LINDGREN: I'm going to join that
15 objection.

16 THE WITNESS: Access authorization will
17 not make a decision related to access unless there's
18 a job required. So if an individual doesn't have a
19 job, but they would go to access and say I want to be
20 considered for unescorted access, my understanding is
21 unescorted access would not go through that process
22 because there's no reason to do that.

23 BY MR. JOHNSON:

24 Q. So it's --

25 A. So --

1 Q. I didn't mean to interrupt you. Go ahead.

2 A. So if an individual has a permanent denial,
3 they probably don't have a position requiring
4 unescorted access because they would know whether it
5 was permanent or if there was a time frame on it.

6 Q. Okay. So in Mr. Goforth's case, assuming
7 that he had a permanent denial, he could not apply to
8 get his UAA unless he had a job that required it?

9 MR. BERNIER: Object to the form.

10 THE WITNESS: That would be my
11 understanding because there would be no reason for an
12 application for unescorted access without a job
13 requiring it.

14 BY MR. JOHNSON:

15 Q. Okay. Thank you. Let's look at Document 4,
16 please.

17 A. I am getting a message that says the preview
18 didn't load and it may be protected, and I cannot
19 download this file.

20 Q. Okay.

21 MR. BERNIER: Meshelle, try refreshing.
22 This happened to a previous witness. Just refresh
23 the whole window and see if that helps.

24 THE WITNESS: And it does. Is it the
25 employment -- or adverse employment action and

1 executive review board procedure?

2 BY MR. JOHNSON:

3 Q. Yes. And I'll represent that this was
4 previously identified as Exhibit 20 to Mr. Sanders'
5 deposition, so I'm not going to be readmitting it.

6 And is this the policies established by TVA
7 to give guidance for conducting executive review
8 boards?

9 A. This is the procedure that provides that
10 guidance.

11 Q. And this says, "effective date 10/20/2017" on
12 the first page there; does it not?

13 A. It does say that.

14 Q. Okay. Look at Section 3.0 for me, please.
15 It's on Page 6 of 39.

16 A. 3.0?

17 Q. Yes, ma'am. It's called "Process."

18 A. Yes.

19 Q. So we're in the Section 3.0 called Process,
20 and then it says -- 3.1 says, "Roles and
21 Responsibilities"; correct?

22 A. Yes.

23 Q. And 3.1.1 says, "Executive Review Board";
24 correct?

25 A. Correct.

1 Q. And I want you to read Item B under that
2 Section 3.1.1 entitled, "Executive Review Board."

3 A. Did you say, "B," as in bravo or "D," as in
4 delta?

5 Q. "B," as in bravo.

6 A. It states, "Ensure that the discipline is not
7 taken because an employee engaged in activities
8 protected by the employee protection regulations of
9 10 CFR 50.7.{C.1}"

10 Q. All right. And let's look at Subsection E,
11 echo, and just read the first line of that, please.

12 A. "Review proposed adverse actions before the
13 actions are taken to determine whether the proposed
14 actions are consistent with employee protection
15 regulations."

16 Q. And let's go down to 3.1.3 in the same --
17 3.1.3 on the same page, Page 7 of 39.

18 A. Okay. Do you want me to read something?

19 Q. Yeah. Let's read -- well, 3.1.3 is called
20 "TVA Nuclear Line Manager"; correct?

21 A. Yes, it is.

22 Q. And go ahead and read what it says under
23 alpha there.

24 A. "The applicable line manager is responsible
25 for initiating this process for both TVA nuclear

1 employees and staff augmented contract personnel,
2 including fact-finding investigation of incidents."

3 Q. Did you or anyone else from the ERB, to your
4 knowledge, ever contact Jeff McGuire about the
5 proposed ERB actions?

6 A. I don't have any knowledge related to contact
7 with Jeff.

8 Q. Do you know who Jeff McGuire is?

9 A. No. No, I do not.

10 Q. Let's look at Page 8 of 39.

11 A. Okay.

12 Q. And we're at Section 3.1.5.

13 A. 3.1.5?

14 Q. Yes, ma'am. And that's called "Contractor or
15 Vendor Human Resources"; correct?

16 A. Correct.

17 Q. And it says -- or read subsection Charlie for
18 me.

19 A. "The contractor/vendor HR representative is
20 responsible for identifying and informing the TVA
21 nuclear HR and the ERB of any protected activity of
22 which they are aware."

23 Q. And so do you recall who the contractor HR
24 representative was for Mr. Goforth's termination?

25 A. It was Rebecca. I don't remember her last

1 name right off.

2 Q. Does Rebecca Rogers sound correct?

3 A. Yes, that's correct.

4 Q. Did you have any conversations with Rebecca
5 Rogers prior to the termination of Mr. Goforth
6 regarding the subject of the ERB?

7 A. I don't recall having anything specific to
8 the ERB. I think it was more about -- well, not the
9 conduct of the ERB, but making sure the ERB paperwork
10 was filled out and the purpose of the ERB.

11 Q. Okay. Did you ever have any conversations
12 with her that you recall where you-all talked about
13 protected activity of Mr. Goforth?

14 A. I don't recall any conversation with Rebecca
15 on protected activity with Mr. Goforth.

16 Q. I'm going to ask you about some other folks
17 who were not HR folks, but while we're on the subject
18 of information about protected activity. We've
19 already talked about John Reeves, and I think your
20 testimony was you don't recall any conversations with
21 Mr. Reeves about protected activity of Mr. Goforth.
22 Am I remembering that correctly?

23 A. Yeah, I don't have any recall of
24 conversations with Reeves related to protected
25 activity or anything else.

1 Q. And we've already talked about Johnny Slater,
2 and you don't recall any communications with
3 Mr. Slater about protected activity?

4 A. I do not recall any conversations, other than
5 what you shared with me previously about Mr. Slater
6 and his involvement with the non-select.

7 Q. Sure. All right. How about Tony White, any
8 conversations with Tony White about protected
9 activity?

10 A. Not about protected activity.

11 Q. About something -- did you have any
12 conversations with him about something else regarding
13 Mr. Goforth?

14 A. It would have only been related to the ERB
15 process and DeWarren filling out the paperwork for
16 the ERB process.

17 Q. Well, tell me what you can recall about such
18 conversations you had with Tony White.

19 A. Tony is the maintenance director, and
20 DeWarren, the DZ -- I'm not sure what his title
21 was -- coordinator, that he supported maintenance.
22 So Tony is the director of maintenance. Just from an
23 awareness of DeWarren having to put the ERB package
24 together associated with the manway covers.

25 Q. Did Tony White mention to you that Goforth

1 had ongoing litigation with TVA?

2 A. Not that I recall.

3 Q. Did you ever have any conversations with
4 Jesse James about Mr. Goforth, that you can recall,
5 prior to Mr. Goforth's termination?

6 A. No, other than I just may have confused my
7 time frame a little bit as to whether it was Jesse
8 James or if it was Tony White that was the director
9 of maintenance during this time.

10 Q. Well, I can represent to you that that
11 transition from Jesse James to Tony White occurred in
12 about March of 2018, I think the record shows. Would
13 that be consistent with your memory?

14 A. Yeah, that sounds right. So Jesse would have
15 been the director of maintenance, so the conversation
16 about the ERB process would have been Jesse versus
17 Tony. I previously said I had talked with Tony about
18 the ERB process. So it would have been with Jesse.
19 Jesse was the maintenance director.

20 Q. Okay. Well, what conversations, if any, can
21 you remember that you had with Jesse James about
22 Mr. Goforth?

23 A. Only, again, that there would have been the
24 ERB process associated with whatever adverse
25 employment action was decided with Mr. Goforth

1 relative to the manways.

2 Q. Do you recall Mr. James referencing any
3 litigation with TVA that Mr. Goforth was involved in?

4 A. I do not.

5 Q. Do you recall him talking about an evaluation
6 that Mr. Goforth had written about an incident that
7 occurred during tritium activities?

8 A. I do not.

9 Q. All right. Let's talk about DeWarren
10 Washington. Previously, we talked about the boxes
11 that Mr. Washington checked on his initial draft in
12 Item 14. Can you tell me about conversations you
13 had, if any, with Mr. Washington about Mr. Goforth?

14 A. The conversations I had with DeWarren were
15 about filling out the ERB paperwork and just helping
16 him through that process.

17 Q. Can you tell me more specifically what the
18 conversations mentioned?

19 A. It would have been around completeness of the
20 paperwork; any information or documentation
21 associated with the investigation that supported
22 their decision, their adverse employment decision.

23 Q. And I think we already talked about that you
24 didn't ask him about why he checked those boxes the
25 way he checked them, but correct me if I'm wrong

1 about that.

2 A. That's correct. I didn't ask him about that.
3 I provided that feedback to Kim as part of the review
4 of the package.

5 Q. Do you recall Mr. Washington specifically
6 saying that Mr. Goforth was involved in litigation
7 with TVA?

8 A. I don't recall DeWarren sharing that
9 information with me.

10 Q. Did you have any -- or who is Jon Hanner?

11 A. I'm not sure.

12 Q. If I told you that he was the DZ --

13 A. HR.

14 Q. -- HR person for Watts Bar, or maybe even for
15 Watts Bar and other facilities, does that sound
16 correct?

17 A. It does.

18 MS. LINDGREN: Object to form.

19 BY MR. JOHNSON:

20 Q. Do you recall having any conversations with
21 Mr. Hanner about Mr. Goforth prior to Mr. Goforth's
22 termination?

23 MS. LINDGREN: Object to form.

24 THE WITNESS: I do not specifically
25 recall conversations with Jon, but he could have been

1 A. We do ERBs for suspensions and terminations,
2 so it's highly likely the majority of them dealt with
3 terminations.

4 Q. Okay. On that subject, let's take a look at
5 Document 12. And just let me know when you're with
6 me.

7 A. I am with you.

8 Q. Okay. That looks on its face -- to make sure
9 we're on the same document -- to be a November 28,
10 2018, letter by the Nuclear Regulatory Commission to
11 Mr. Joseph W. Shea; correct?

12 A. Correct.

13 Q. It recites that Mr. Shea was the vice
14 president of nuclear regulatory affairs and support
15 services for TVA; correct?

16 A. Correct.

17 Q. You want to take a minute and familiarize
18 yourself just with the letter itself, the first two
19 pages.

20 A. Okay.

21 Q. And then, let me know if that is a document
22 you're familiar with.

23 MR. JOHNSON: And while you're looking at
24 the document, and this is for counsel's reference
25 only, I'm not going to admit this document because

1 it's been previously admitted as Exhibit 17, and that
2 was to Mr. Sanders' deposition.

3 THE WITNESS: I have reviewed the first
4 two pages.

5 BY MR. JOHNSON:

6 Q. Okay. Have you seen this document before,
7 other than in preparation for your deposition with
8 counsel?

9 A. I don't recall seeing this before.

10 Q. Okay. Were you aware that at some point --
11 or let me ask it this way. At any point since
12 November 28, 2018, has TVA implemented a process to
13 review all access denials by an ERB?

14 A. Ask me that again.

15 Q. Since November 28, 2018, the date of this
16 letter, has TVA initiated a process for all access
17 denials to be reviewed by an ERB?

18 MR. BERNIER: Object to the form. You
19 can answer, Meshelle.

20 THE WITNESS: ERBs for access denials are
21 not required. There can be a discretionary or we
22 call it a non-required ERB for access denials. And
23 the reason ERB doesn't review access denials is
24 because that is an independent process. So the
25 denial of access isn't necessarily viewed as an

1 adverse employment action that falls under ERB. That
2 might be an easier way to say it.

3 BY MR. JOHNSON:

4 Q. And that's the way you have been
5 understanding what ERBs are supposed to do with
6 respect to access denials during the time that you
7 were at Watts Bar?

8 A. I would have pulled out the procedure, and
9 it's been revised a couple of times since then, so
10 I'd have to look at the procedure and what the
11 requirements were at the time to make sure I answer
12 that question properly. So if we can go back to the
13 ERB procedure, I would feel more comfortable with
14 telling you what the requirements were related to
15 access denials.

16 Q. But sitting here today you can't recall
17 whether TVA has, since November 28, 2018, required
18 ERB review of all access denials?

19 A. Correct. There is not a requirement to
20 review all access denials.

21 MR. JOHNSON: Okay. Would y'all like to
22 take another break at this time? And if you could
23 leave Document 12 up, please, Ms. Augustin. We'll
24 come back to that. It's 11:13. I understand you
25 need to be done by 12:45. I think we'll stay well

1 under that, but let's, for everyone's benefit, since
2 we've been going two hours, let's take a -- y'all
3 want five minutes, ten minutes? A ten-minute break.

4 THE WITNESS: I'm good with about five
5 minutes.

6 MR. JOHNSON: Okay. Five-minute break
7 until 11:18.

8 (Short break.)

9 MR. JOHNSON: All right. Is everybody
10 back? Are you ready to proceed then?

11 BY MR. JOHNSON:

12 Q. All right. We are done with Document 12,
13 except for this one last question. Was an ERB
14 conducted to review the access denial of Mr. Goforth
15 before his access was denied?

16 A. No. There was no reason to do an ERB at that
17 time because it's not required by the procedure.

18 Q. Do you recall having any conversations with
19 Paul Simmons about Mr. Goforth, other than at the ERB
20 meeting?

21 A. I happened to be sitting in the OCC, the
22 outage control center, the morning that the issue of
23 the manways being left open came up, and I was
24 sitting next to Paul when that was reported out. And
25 my conversation with him was about that's not a good

1 A. Yes.

2 Q. This seems to be an e-mail from you to Amanda
3 Elizabeth Poland of November 7, 2018; correct?

4 A. Correct.

5 Q. Can you tell me who Amanda Poland is?

6 A. Amanda Poland, at the time, was my boss.

7 Q. Okay. And so describe her position for me.

8 A. She was the director of, I'm going to say,
9 nuclear HR. I don't recall exactly what the title
10 was.

11 Q. So she was --

12 A. But similar to what my responsibilities are
13 today is what she had previously in that role.

14 Q. Did you succeed her when you got the job?

15 A. Yeah. There was a gap in time where the
16 position wasn't filled and two individuals, myself
17 and someone else, acted in that role. And then in, I
18 believe, it was late -- late August or September of
19 last year is when I took the position full-time.

20 Q. Okay. So on November 7th Ms. Poland is
21 saying, is she not, "Contractors don't, but isn't
22 Goforth the one who has an open action against us for
23 not hiring him"? That's what Ms. Poland is saying to
24 you; right?

25 A. Yes.

1 Q. And then you're responding to that with this
2 e-mail back to her; right?

3 A. Correct.

4 Q. So tell me about any conversations that you
5 may have had with Ms. Poland on the subject of this
6 e-mail prior to the termination of Mr. Goforth.

7 A. So Amanda had been contacted through LinkedIn
8 by Mr. Goforth, and when she accepted the request, he
9 apparently had reached out to her relative to his
10 non-select action and had asked her via LinkedIn for
11 assistance. And so Amanda had asked at some point
12 relative to that contact, you know, what the
13 information was or what the case was that was
14 impacting Mr. Goforth. And I shared with her that it
15 was a non-select related to that preference.

16 Q. So at the time that you sent this e-mail to
17 Ms. Augustin (sic), this was prior to the meeting of
18 the ERB on November 21st that we talked about
19 earlier; correct?

20 A. Correct.

21 Q. At any time prior to the termination of
22 Mr. Goforth, did you attempt to find out any more
23 about what this open litigation you-all are referring
24 to was about?

25 A. No, I didn't, and --

1 MS. LINDGREN: Object to the form.

2 THE WITNESS: No, I did not, and the
3 reason is, I deal with a number of various cases in
4 different stages, and I don't keep basically a
5 running status as to where each one of those is. So
6 if OGC reaches out to our HR generalist, or reaches
7 out to me for information, then it becomes a data
8 point. But otherwise, they just kind of work through
9 the process in the background.

10 BY MR. JOHNSON:

11 Q. Were you not concerned at this time that this
12 might be protected activity?

13 MS. LINDGREN: Object to the form.

14 THE WITNESS: I looked at this as a
15 separate issue, a non-select, not necessarily
16 protected activity. I look at it as a different
17 element.

18 BY MR. JOHNSON:

19 Q. And then if you look at the second page,
20 please, of Document 10. Please read -- well, let's
21 establish what it is first. It seems to be another
22 e-mail from you to Ms. Poland, but this one is dated
23 November 21st in the afternoon at 1:53 p.m.; correct?

24 A. That is correct.

25 Q. So this would have been sometime pretty

1 as Exhibit 68, and it is -- Document 10 is
2 Exhibit 68.

3 (Document was marked for identification
4 as Exhibit Number 68.)

5 BY MR. JOHNSON:

6 Q. Let's look at Document 11.

7 A. Okay.

8 Q. And do you recognize the e-mail from you --
9 or from DeWarren Washington, because it was CC'd to
10 you and Mr. Sanders, of December 4th that begins
11 halfway down the page?

12 A. Is the question do I recognize the e-mail?

13 Q. Yeah. Do you recall sending this e-mail or
14 receiving this e-mail?

15 A. I don't necessarily recall receiving it, but
16 apparently I did because I'm on the CC.

17 MR. JOHNSON: All right. Let's call that
18 69. Document 11 is 69.

19 (Document was marked for identification
20 as Exhibit Number 69.)

21 BY MR. JOHNSON:

22 Q. This may be a subject that we've addressed
23 earlier in the deposition, I can't recall, but remind
24 me if we did. Do you recall a complaint made by Greg
25 Whitehorn in the 2017/2018 range of time?

1 A. Is there a topic related to Mr. Whitehorn?

2 Q. Yes, a complaint about retaliation for
3 protected activity.

4 A. I recall Mr. Whitehorn having a concern about
5 a performance review. I don't recall if it was tied
6 to a complaint about protected activity.

7 Q. What role, if any, did you play with regard
8 to that complaint that you just referenced?

9 A. I worked through a process related to
10 Mr. Whitehorn's performance review and his
11 superintendent at the time relative to the accuracy
12 of the performance review, and then we ultimately had
13 a settlement with Mr. Whitehorn that drove changes to
14 his performance review.

15 Q. Do you recall if his supervisor at the time
16 that wrote the performance review was Dusty Rhodes?

17 A. Yes, that was the superintendent that we
18 worked with.

19 Q. So did you work -- did you have
20 communications directly with Mr. Rhodes in attempting
21 to work this out with Mr. Whitehorn?

22 A. Yes.

23 Q. Did Mr. Rhodes -- well, let me ask this about
24 Mr. Whitehorn first. Did Mr. Whitehorn ever provide
25 you with copies of an evaluation of cycle 14 tritium

1 program that was part of his complaint?

2 A. I do not recall.

3 Q. If you don't recall the document, do you
4 recall the subject matter?

5 A. I don't recall a document or the subject
6 relative to Mr. Whitehorn's complaint.

7 Q. Do you recall the complaint was about certain
8 CRs that were written about activity in the tritium
9 program?

10 MR. BERNIER: Object to the form. Jim, I
11 think we're a little far afield here from the case.
12 Are you talking about a different case entirely? Are
13 you going to link them up?

14 MR. JOHNSON: Well, I mean, I don't think
15 this is a time to make relevance objections, if
16 that's what you're doing. But we believe it to be
17 relevant, so I would ask that the witness answer the
18 question.

19 MR. BERNIER: Okay. You can answer,
20 Meshelle.

21 THE WITNESS: I don't remember any
22 condition reports related to tritium. Again, the
23 recall I had had to do with his performance review
24 and his overall performance rating for that
25 performance review.

1 BY MR. JOHNSON:

2 Q. Do you recall discussing, in the context of
3 your involvement to the settlement of the matter,
4 whether Mr. Rhodes mentioned Mr. Goforth's
5 evaluation?

6 MR. BERNIER: Object to the form. Jim,
7 what do you mean by discussing in the context of the
8 settlement of the matter?

9 BY MR. JOHNSON:

10 Q. All right. Do you recall Mr. Rhodes telling
11 you anything about an evaluation of cycle 14 of the
12 tritium program written by Mr. Goforth?

13 A. I do not.

14 Q. Do you recall complaints by any other TVA
15 employees, besides Mr. Whitehorn, that were for
16 protected activity within the tritium program in
17 2017/2018?

18 MR. BERNIER: Object to the form.

19 THE WITNESS: I would not necessarily get
20 any complaints like that. I don't have any recall of
21 other complaints or concerns. In fact, I don't have
22 any dealings from the perspective of the tritium work
23 that's done. So based on that, I have no recall of
24 any other issues that came up associated with
25 tritium.

1 BY MR. JOHNSON:

2 Q. Do you recall Mr. Whitehorn taking the
3 position in his complaint that Mr. Rhodes' evaluation
4 was retaliation for his protected activity?

5 MR. BERNIER: Object to the form.

6 MS. LINDGREN: Object to the form.

7 THE WITNESS: I don't have any specific
8 recall to that. Again, what I recall was focused on
9 overall performance review and the rating.

10 MR. JOHNSON: I think I may be finished
11 with my questions. Let me just check on a couple of
12 these exhibits with the court reporter. Was
13 Document 7 admitted as one of the exhibits?

14 THE REPORTER: No.

15 MR. JOHNSON: Okay. If anybody wants to
16 take a look at Document 7 again, we went over it, and
17 I would like for that to be admitted as Exhibit 70.

18 (Document was marked for identification
19 as Exhibit Number 70.)

20 MR. JOHNSON: And we admitted Document 9
21 as an exhibit, did we not? I'm asking the court
22 reporter.

23 THE REPORTER: Yes.

24 MR. JOHNSON: And we admitted Document 1,
25 did we not?

REPORTER'S CERTIFICATE

STATE OF TENNESSEE

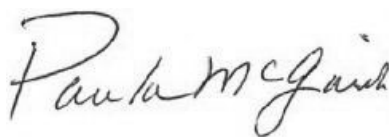
COUNTY OF HAMILTON

I, PAULA McGUIRK, RPR, LCR#789, CCR-GA, in
and for the State of Tennessee, do hereby certify
that the deposition of MESHELLE AUGUSTIN was reported
by me, and that the foregoing 90 pages of the
transcript is a true and accurate record to the best
of my knowledge, skills and ability.

I further certify that I am not related to
nor an employee of counsel or any of the parties to
the action, nor am I in any way financially
interested in the outcome of this case.

I further certify that I am duly licensed
by the Tennessee Board of Court Reporting, as
evidenced by the LCR number and expiration date
following my name below.

In witness whereof, I have hereunto set
my hand this 5th day of October, 2021.



PAULA McGUIRK, RPR, LCR, CCR-GA
LCR#789 - Expires: 6/30/2022

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

ROBERT M. GOFORTH,

Plaintiff,

vs.

TENNESSEE VALLEY AUTHORITY
and DAY & ZIMMERMANN NPS,
INC.,

Defendants.

Case No.: 1:20-cv-254

Chattanooga, Tennessee
September 30, 2021

DEPOSITION OF REBECCA WHITEMAN
(Formerly Rebecca Rogers)
(Appearing remotely)

APPEARANCES:

FOR THE PLAINTIFF:

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1 for a moment. I'm not going to quiz you in-depth on it.
2 I'll ask you particular things. But just to familiarize
3 yourself with it. And let me know when you're ready.

4 A Okay. (Reviewing document.)

5 Q On its face, this document is dated January 5,
6 2017, correct? Top left-hand corner.

7 A Yes. Yes.

8 Q And does this look like a hire letter from
9 Day & Zimmermann for a particular job for Mr. Goforth?

10 MR. LANTIS: Objection to form.

11 A Yes.

12 Q And in the first sentence of the letter it's
13 saying that the company is offering him the position of
14 task manager DOE tritium project at TVA Watts Bar Nuclear
15 Power station in Spring City, Tennessee.

16 So my question is, is that the job that he held at
17 the time that you were involved in his termination?

18 MR. LANTIS: Objection to form.

19 You may answer.

20 A To my knowledge, he was in that role.

21 Q And have you ever worked on these hire letters of
22 employees before, management employees like this?

23 A No.

24 Q So if we go down the document it says: "In the
25 performance of these duties, we are pleased to offer you

1 a bi-weekly salary of \$5,760, which is the equivalent of
2 \$149,760." Correct? It says that?

3 A Yes, it says that.

4 Q And it says: "Your salary is based on the
5 assumption you will be working a 40-hour workweek,
6 although you may sometimes work more or less."

7 So my question about that is, is a 40-hour
8 workweek a full-time job?

9 MR. LANTIS: Objection to form.

10 You may answer.

11 Q And I'm talking about at DZ in 2017, in your
12 experience, is a 40-hour workweek a full-time job?

13 MR. LANTIS: Objection to form.

14 You may answer.

15 A Yes, that would be considered a full-time
16 position.

17 Q And we've talked before about outages. In your
18 deposition testimony you mentioned outages. So, when
19 there is an outage at Watts Bar, are most DZ employees
20 assigned to Watts Bar given an outage role that is
21 separate from their full-time role?

22 A Sometimes. Not all the time, is my understanding,
23 I don't know the ins and outs of exactly, you know,
24 what -- where they might move somebody.

25 Q But that happens?

1 an outage then the time gets assigned to outage time?

2 MR. LANTIS: Objection to form.

3 You may answer.

4 MR. MEALOR: Objection.

5 A I believe so. Again, I'm not a hundred percent
6 sure how the ins and outs work on the time. I don't know
7 it to be an issue.

8 Q Okay. Well, looking at the first page again,
9 which is marked 368 at the bottom right...

10 A Okay.

11 Q I understand from your testimony that your boss at
12 the time was Jon Hanner, correct?

13 A That's correct.

14 Q So, if you look partway down, on November 15th
15 Victoria Lopez was saying -- and I'm just reading for you
16 for the benefit of brevity, "Jon - is this billable to
17 the client or non-billable?" It says that, right?

18 A Yes.

19 Q Do you know who Victoria Lopez is?

20 A Victoria Lopez worked in the business services
21 organization.

22 Q So what does the business services organization
23 do? Or maybe more specifically, what does she do within
24 the business services organization?

25 A My understanding is they help with administrative

1 tasks on the HR side. So, for this purpose, it looks
2 like she was helping out, trying to get this sorted
3 through.

4 Q So she's an HR -- within HR?

5 A Yes.

6 Q And then there is an answer back to Ms. Lopez that
7 says, at the top of Document 2, "Billable per John
8 Reeves," right?

9 A Yes.

10 Q The first email --

11 A Yes.

12 Q So, the question there is "Do we bill this to the
13 client," I take it that that means -- the client would be
14 TVA, right?

15 A Yes.

16 Q "Do we bill this to the client" or do we bill it
17 to ourselves, I guess. DZ, right?

18 MR. LANTIS: Objection to form.

19 MR. MEALOR: Objection.

20 MR. LANTIS: Objection.

21 A Yes.

22 Q Okay.

23 A To DZ.

24 Q And do you -- if I state that Mr. Goforth was
25 suspended from work, with pay, on October 22nd until he

1 was terminated on November the 29th, this email would've
2 been sent during that period of his suspension, right?

3 A Yes, it appears that way. I was not involved.

4 Q Okay. Let's take a look at Document 3.

5 THE REPORTER: Was that an exhibit, sir?

6 MR. JOHNSON: Oh, yeah. I need to mark this
7 one. This will be Exhibit 74, the November 15th email
8 chain that we were just discussing.

9 (Exhibit 74 marked for identification.)

10 BY MR. JOHNSON:

11 Q Okay.

12 A I've opened Document 3.

13 Q All right. Again, this is not -- well, let's see.
14 This is not something that I expect you to have seen
15 before. But this seems to be a later iteration of the
16 some thing we discussed in Exhibit 74 that we just
17 reviewed. So I'm going to ask you some questions
18 regarding this one.

19 At the bottom of this document which has been
20 previously marked as Exhibit 56, it says, in an email
21 to -- copies to your boss, Mr. Hanner -- are you with me,
22 there at the bottom of Exhibit 56?

23 A Yes.

24 Q Okay. And this email went to your boss,
25 Mr. Hanner, right?

1 A Yes.

2 Q Okay. And it says: "The job that Mr. Goforth is
3 on works for 10s. That job worked three days last week.
4 Then I put him in the for holiday that we got. I was not
5 aware at all that Mr. Goforth was terminated on the 21st.
6 When I asked Mr. Washington today about Mr. Goforth's
7 time, he told me he needs to be paid for last week."

8 It says that, correct?

9 A Yes, it says that.

10 Q So, open Document 3A now, please.

11 A Okay. I've opened it.

12 Q And the top -- well, Document 3A has been
13 previously marked as Exhibit 57. And at the top it
14 appears to be an email from your boss, Jon Hanner, dated
15 November 26 to DeWarren Washington, Carla Fisher,
16 Stephanie Chessser, and others, correct?

17 A Yeah.

18 Q And what your boss, Mr. Hanner, is saying is, is
19 he not, "To clarify, this means three days at eight hours
20 per day billable as DeWarren directs." It says that,
21 does it not?

22 A Yes.

23 Q And then if we look down at the next email, it's
24 an email from Mr. Washington to Mr. Hanner, dated the
25 same day as the email that you just -- that we just

1 looked at. And in that email, Mr. Washington is saying
2 to Mr. Hanner, "H should be paid what his work group
3 worked," correct?

4 MR. LANTIS: Objection to form.

5 A Yes.

6 Q All right. And then if you turn to the next page,
7 there's an email halfway down from Carla Fisher to
8 Stephanie Chesser and copied to your boss and others,
9 that says, "He works tritium." It says that, does it
10 not?

11 A Yes.

12 Q And so Ms. Fisher, who you previously identified,
13 is saying: "He works tritium. Miki confirms they did
14 work, so I will charge him to that for three days and two
15 holidays." It says that, right?

16 MR. LANTIS: Objection to form.

17 You can answer, Becca.

18 A Yes, it says that.

19 Q So from reading this, is it fair to conclude that
20 when Mr. Goforth was on suspension he was paid time for
21 his -- the time that his work group, tritium, worked,
22 correct?

23 MR. LANTIS: Objection to form.

24 MR. MEALOR: Object.

25 A Yes.

1 terminated for falsification of documents; is that
2 correct?

3 A That's correct.

4 Q Let's open Document Number 5.

5 A Okay. It's open.

6 Q This document appears on its face to be an email
7 from you to Kenneth Blackwell, with copy to John Reeves
8 dated, October 31, 2018. Am I correct?

9 A That is correct.

10 Q And the subject matter is "Protected Activity,"
11 right?

12 A That is correct.

13 Q So, just tell me what you were trying to do with
14 this email when you sent it.

15 A So, as part of our process for the ERB process, we
16 check with our ECP designated person, who was Kenneth
17 Blackwell here, to ensure that the employee hasn't
18 engaged in any protected activity on the DZ side.

19 Q So tell us for the record what ECP stands for.
20 You just mentioned ECP. If I help you out a little bit,
21 can you tell me --

22 A Yeah, you're going to have to.

23 Q You're having a little brain freeze in that. If I
24 tell you it's Employee Concerns Program, does that sound
25 right?

1 A Yeah, that's correct. Thank you.

2 Q And so what was Kenneth Blackwell's role within --
3 if any, within employee concerns?

4 A He was our representative for DZ at the TVA sites.

5 Q At all of the TVA's sites or just Watts Bar?

6 A He does all of them, to my knowledge.

7 Q So did he reside, in 2017-'18, geographically, up
8 at Lancaster, or was he somewhere down in TVA world?

9 MR. LANTIS: Objection to form.

10 A To my knowledge, he was somewhere in TVA,
11 Tennessee.

12 Q So, is it your understanding of the ERB process,
13 which you just mentioned, that DZ is, with respect to
14 employees like Mr. Goforth, supposed to conduct a search
15 for protected activity by the employee?

16 A Yes.

17 Q So other than contacting Mr. Blackwell about
18 concerns that Mr. Goforth may have expressed to ECP, what
19 other attempts to determine if Mr. Goforth engaged in
20 protected activity did you make?

21 A We followed the ERB process that had been set
22 forth by TVA.

23 Q Did you talk to Mr. Goforth about whether he had
24 engaged in protected activity?

25 A No.

1 Q Did you talk to John Reeves about whether
2 Mr. Goforth had engaged in protected activity?

3 A No. Aside from this email being sent.

4 Q Do you know what role Mr. Reeves played in the
5 termination of Mr. Goforth?

6 A Yes.

7 Q What was that role?

8 A John Reeves made the decision to terminate
9 Mr. Goforth.

10 Q Did John Reeves ever tell you what he based that
11 decision on?

12 A Yes.

13 Q Did he tell you that he interviewed Mr. Goforth?

14 A Yes.

15 Q Did he tell you that Mr. Goforth told him during
16 the interview that he was being targeted for protected
17 activity?

18 MR. LANTIS: Objection to form.

19 You may answer.

20 A He had mentioned that Mr. Goforth had raised a
21 concern but it was not part of this concern.

22 Q Okay. Well, what did he tell you about the
23 concern that Mr. Goforth raised?

24 A He didn't tell me any details about it. And
25 that's why we do these ECP protected activity checks.

1 Q Did he tell you that there were other employees
2 who engaged in the same types of activity that he was
3 fired for that were not disciplined?

4 MR. LANTIS: Objection to form.

5 MR. MEALOR: Object to form.

6 A No.

7 Q So as follow-up to what Mr. Reeves said to you, as
8 you've just testified, did you do anything to discover
9 what protected activity Mr. Goforth may've engaged in,
10 other than sending this email to Mr. Blackwell?

11 A Yes. As I had mentioned before, we go through the
12 ERB process that's set forth by TVA.

13 And I think it's helpful to add that, you know,
14 safety is Day & Zimmermann's number one core value, and
15 we really care about the safety of our employees. So I
16 think the great thing about the ERB process that we go
17 through, and filling out the paperwork and engaging in
18 that review board, is that it puts that layer of checks
19 in place to ensure that any proposed actions that
20 management is taking doesn't negatively impact our
21 employees. And it just makes them feel comfortable to
22 raise a concern without fear of retaliation.

23 Q So, I take it from your testimony then that any
24 further information, other than from Mr. Blackwell, on
25 protected activity by Mr. Goforth would be reflected in

1 the ERB documents?

2 MR. LANTIS: Objection to form.

3 You may answer.

4 MR. MEALOR: Object to form.

5 A Yes. We would check that they've had contact with
6 the ECP representative. We don't know what the protected
7 activity was.

8 Q Other than Mr. Goforth and Mr. Reeves, which
9 you've already testified about, did you speak -- do you
10 recall speaking to anyone else about protected activity
11 by Mr. Goforth?

12 A Yes.

13 Q Who would that be?

14 A Jon Hanner.

15 Q All right. Tell me about the discussions you had
16 about protected activity by Mr. Goforth with Jon Hanner.

17 A So, to the follow-up to this email they had, the
18 only contact that DZ had had, from Ken's perspective, was
19 a casual contact, to my knowledge, which there was no
20 details on. So we chose to put that on the ERB
21 paperwork, where we check yes, they've contacted the ECP
22 department.

23 I wouldn't consider that protected activity
24 necessarily, but they did contact. So my question to Jon
25 Hanner was just ensuring that even though it was a casual

1 contact with our ECP representative, that it was in fact
2 considered a contact to ECP, and so I wanted to ensure
3 that when we were filling the paperwork out to be
4 presented to the review board that we checked that box.
5 That would make sense.

6 Q So the only thing you discussed with Mr. Hanner
7 was -- with respect to protected activity by Mr. Goforth,
8 was this ECP documentation that you've just referred to?

9 A Yes. The email that Ken had sent back after this.

10 MR. JOHNSON: All right. Let me just say for
11 the record that Document 5 that Ms. Rogers was looking at
12 has been previously identified as Exhibit 32. So we
13 don't need to re-introduce it.

14 BY MR. JOHNSON:

15 Q Okay. I think we're at the point where you can
16 open up Document 6.

17 A Okay. I'm opening Document 6.

18 Q So, Document 6 appears to be what you had -- what
19 you previously testified to just a moment ago about
20 discussing the ECP information from Mr. Blackwell with
21 Mr. Hanner, correct?

22 A Yes.

23 Q So, on -- it appears that you conducted that
24 conversation, set up by this email, at a meeting on
25 November 2nd. So my question is, did you have that

1 meeting on November 2, 2018 with Jon Hanner?

2 A Yes.

3 Q And did John Reeves participate, as indicated on
4 this meeting getting set up?

5 A I believe so.

6 Q Do you recall anything that John Reeves said
7 during this phone conference of November 2nd?

8 A I don't remember all of the conversation, but I do
9 recall that he was on the call with us.

10 Q Did he at this time say, to your recollection,
11 that Mr. Goforth had told him that he was being targeted
12 for protected activity, and he said that during his --
13 that is, that he said that during his interview with him?

14 MR. LANTIS: Objection.

15 Q Do you recall whether Mr. Reeves said that during
16 this meeting?

17 MR. LANTIS: Objection to form. You may
18 answer.

19 MR. MEALOR: Objection.

20 A I don't recall exactly what he said in regards to
21 Mr. Goforth feeling targeted. I do recall that he had
22 mentioned that he brought something up about him -- about
23 Mr. Goforth being involved in protected activity.

24 We -- excuse me. John Reeves had already made his
25 decision, and we were reviewing to ensure that we were

1 putting everything properly on the paperwork to reflect.
2 And I assured John Reeves that, you know, I had to go
3 through my own checklist with DZ in which this came up.
4 So that's why we had that conversation.

5 Q So when you say that Mr. Reeves had already made
6 his decision, you mean the decision to terminate
7 Mr. Goforth?

8 A That is correct.

9 Q So did Jon Hanner suggest to you any follow-up
10 that should be done regarding Mr. Reeves mentioning, as
11 you've just testified to, protected activity by
12 Mr. Goforth?

13 A No.

14 Q And did you take -- and I think this is just
15 repeating testimony you've already made, but just to be
16 sure now that we've looked at this. Did you do anything
17 other than conduct -- contact Mr. Blackwell about
18 protected activity by Mr. Goforth, and filling out the
19 ERB documents as you've previously testified to?

20 A No, nothing additional.

21 Q Looking at the second page of Document Number 6 --
22 which let's go ahead and mark this as Exhibit 76.

23 MR. LANTIS: Jim, you're marking this entire
24 document, Document 6, as Exhibit 76?

25 MR. JOHNSON: Yes.

1 MR. LANTIS: Okay. I just want to be clear
2 for the record, this is a compendium of documents. That
3 it's not one continuous document, rather it's --

4 MR. JOHNSON: Right.

5 MR. LANTIS: -- multiple documents, one of
6 which looks like it was previously marked.

7 MR. JOHNSON: Yeah. Within it is previously
8 marked Exhibit 35.

9 MR. LANTIS: There's just three separate
10 documents in this one document.

11 MR. JOHNSON: Right.

12 Off the record for a moment.

13 (Off-the-record discussion was had.)

14 MR. LANTIS: Why don't we mark that as three
15 separate documents? I just -- there are three documents,
16 and they're -- I mean, it's not one exhibit. I think
17 that's going to create confusion, especially when one of
18 the documents inside has already been marked as its own
19 standalone document. I think that we should break this
20 into three.

21 MR. MEALOR: I concur.

22 MR. JOHNSON: All right. You tell her how
23 you want to break it down. It doesn't matter to me.

24 MR. LANTIS: Well, I just think we should
25 break it down into the specific documents. Right?

1 So the first page is a calendar invite.
2 That's a document.

3 DZ --

4 MR. JOHNSON: So that's Exhibit 76.

5 MR. LANTIS: Okay. DZ 906 is a document --
6 it's a portion of a document, and it's been marked
7 previously as Exhibit 35. So let's just look at that and
8 call it Exhibit 35.

9 And then you've got the last two pages of
10 this document, which is DZ 405 and 406, and that should
11 be its own document as well. And maybe you want to mark
12 that one as 77. I don't have a preference. Maybe you're
13 not going to even use those last two pages. But I just
14 think that's --

15 MR. JOHNSON: Okay.

16 MR. LANTIS: -- three completely separate
17 documents, and the record should reflect that.

18 MR. JOHNSON: All right. We'll so mark them.

19 So, Sheila, are you clear, the first page of
20 this Document 6 is Exhibit...

21 THE REPORTER: 76.

22 MR. JOHNSON: 76. And then Exhibit 35 has
23 already been admitted, the next. And then the last two
24 pages are going to be Exhibit 77.

25 (Exhibits 76 and 77 were marked for

1 identification.)

2 BY MR. JOHNSON:

3 Q So, for your purposes Ms. Whiteman, let's look at
4 the second page of what you're looking at, which says
5 Exhibit 35 at the bottom, previously marked Exhibit 35.

6 A Okay.

7 Q So you recall seeing this, I take it? Because
8 this is an email from Mr. Blackwell to you of October
9 31st. Correct?

10 A Yes.

11 Q And it is in response to your email that was in
12 Document 5 that we just went through previously. And it
13 was previously marked as Exhibit 32. It was in response
14 to the email you had sent them on October 31st that we
15 just went over. And he's getting back to you the same
16 day and sending you this email, correct?

17 A Yes.

18 Q And in it it says that the concerned individual,
19 CI, his name is Robert Goforth, correct?

20 A Yes.

21 Q And that he contacted ECP on August 30, 2018,
22 correct?

23 A Yes.

24 Q And it says CI's concern, does it not? "CI is
25 augmented to TVA..." It says that, right?

1 A Yes.

2 Q "... and states he believes he is being set up for
3 failure," correct?

4 A Yes.

5 Q And then it says, in the notes, that "the
6 concerned individual stated that the DZ site manager
7 doesn't like him, may be trying to set him up to fail.
8 States he didn't want to file a concern and is handling
9 himself." That's correct? What I just read is correct,
10 right?

11 A Yes.

12 Q So, what follow-up, if any, did you do with anyone
13 regarding the information that was contained on here,
14 besides talking to Mr. Blackwell and Mr. Reeves about it
15 as you've just testified?

16 A I shared it with Jon Hanner.

17 Q Anything else?

18 A I'm sorry?

19 Q Anything else you did as follow-up to this?

20 A I, as I mentioned before, stated it -- or put it
21 on the ERB paperwork as a contact to our ECP department,
22 even though it was, as it says, "not a concern, he's
23 handling himself."

24 Q So you did no follow-up with anyone about the
25 validity of Mr. Goforth's expressed statement that he's

1 being set up to fail?

2 MR. LANTIS: Objection to form.

3 You may answer.

4 A No.

5 Q And now we'll look at what's been marked as
6 Exhibit 77, which appears on its face to be an email from
7 Kenneth Blackwell to Mr. Reeves and Mr. Hanner.

8 Have you seen this email before? It says DZ page
9 405, in the bottom right-hand corner. Should be the
10 third page of your document?

11 A Let me look. (Reviewing document.) I don't
12 recall what this is about.

13 Q Okay. Look at the bottom of that document.
14 There's an email from Jeff McGuire to Ruth Fordham that's
15 a part of this email chain. Are you with me, at the
16 bottom of that page?

17 A Yes.

18 Q Read that email through the end, which goes on to
19 the next page.

20 A (Reviewing document.) Okay.

21 Q So did Mr. Hanner or Mr. Reeves share this email
22 of Mr. McGuire's that we're looking at, with you?

23 A I believe so, but I don't recall.

24 Q Okay. I want to direct your attention
25 particularly to the language where it says, at the top of

1 DZ page 406, the last page of your document, it says,
2 Mr. McGuire is stating in the email, "Look at the prior
3 steps. Robert thought he was verifying the manways were
4 ready to be. DZ is saying the intent of the signoff was
5 for the supervisor to visually verify the manways were
6 installed. To a degree I can see both sides. However,
7 the step is poorly written at best. It is a note, not a
8 step. The actions are out of order as the cleanness
9 inspection should be before the installation. The only
10 action for the supervisor was to observe the cleanliness,
11 which he did. And no place does it say the supervisor
12 has to visually observe the manways are installed."

13 Looking at that language, do you recall seeing
14 this and incorporating some of this language in the ERB
15 documents?

16 A I don't recall putting all of this in there. I do
17 recall that part of the work order was to ensure that the
18 manways were reinstalled -- excuse me, the manway covers
19 were reinstalled.

20 Q Do you recall at any time arriving at the
21 conclusion that the crux of the dispute was whether
22 Mr. Goforth was signing off a note or whether he was
23 signing a work step?

24 A I recall it being a work step in a procedure.

25 Q Do you recall that Mr. Goforth's position was that

1 he was only signing off, as it says here in Mr. McGuire's
2 email, was only signing off on a note, not a work step?
3 Do you recall understanding that at the time of doing the
4 ERB documents?

5 MR. LANTIS: Objection to form.

6 MR. MEALOR: Object.

7 A No, I recall it being a work order.

8 Q Well, we know it was a work order. The question
9 was whether you understood that it was Mr. Goforth's
10 position that he was only signing off on a note, not a
11 work step?

12 MR. MEALOR: Object to form.

13 A To my knowledge, I believe it was a work step.

14 Q Well, I know that's your knowledge. My question
15 is, are you -- were you aware that Mr. Goforth's position
16 was that it was not a work step, that it was a note he
17 was signing off on? I'm asking you did you understand
18 that to be his position, not whether you thought it was
19 right.

20 A No.

21 Q All right.

22 MR. LANTIS: Jim, could we take a short break
23 at some point in time when you get to a natural stopping
24 point?

25 MR. JOHNSON: Yeah. We can take it now if

1 you want.

2 MR. LANTIS: Just five minutes or something.

3 MR. JOHNSON: Yes.

4 MR. LANTIS: Okay. Thanks.

5 (Recess from 10:21 to 10:28 a.m.)

6 BY MR. JOHNSON:

7 Q Ms. Whiteman, open Document 7, please. Just let
8 me know when you have it up.

9 A Okay. It's pulled up.

10 Q Document 7 has been previously marked as Exhibit
11 40. And it appears to be an email from DeWarren
12 Washington to you, dated November the 5th, entitled
13 Goforth, and with attachment Goforth Fact-Finding PDF,
14 correct?

15 A No.

16 Q Okay. Tell me what it is.

17 A This is -- this says -- it's from November 20th,
18 saying Goforth Files.

19 Q You have that -- are you sure you're in Document
20 7?

21 MR. LANTIS: Yes. That's what Document 7 is,
22 Jim.

23 MR. JOHNSON: I'm sorry. Let's see. Let's
24 try Document 6 then. I must've misnumbered them somehow.

25 MR. LANTIS: Document 6? Isn't that what we

1 just looked at?

2 THE WITNESS: Yes.

3 MR. MEALOR: I think you said 40. This was
4 your original Document 40? I can see the number at the
5 very top corner of Document 7, but it was entered as
6 Exhibit 38.

7 MR. JOHNSON: All right. How about take a
8 look at Document 8. See if I got it misnumbered.

9 THE REPORTER: Could we go off the record so
10 I can assist over here?

11 MR. MEALOR: Yeah.

12 (Off-the-record from 10:30 to 10:35.)

13 BY MR. JOHNSON:

14 Q We're looking at what's previously been marked as
15 Exhibit No. 40. And is that an email that you're
16 familiar with?

17 A Yes.

18 Q Okay. So my first question about this email is,
19 did you provide Mr. Washington with the documents in
20 blank form for him to start filling out for the ERB?

21 A Yes.

22 Q And so this email is an email of November 5th from
23 Mr. Washington to you, attaching his having filled out
24 the contractor fact-finding notes. Am I correct?

25 A Yes.

1 Q And so this is the fact-finding notes on
2 Mr. Goforth. And it states "No previous disciplinary
3 actions," about a third of the way down, under Contractor
4 History. Am I right?

5 A Yes.

6 Q Do you know who filled that out? Did you make any
7 check about whether he had previous discipline?

8 Let me just ask it as one question. Did you fill
9 that out or tell him how to fill that one out, with no
10 previous discipline?

11 A Yes. I advised him that there was no previous
12 history.

13 Q And he was seeking, it looks like, a little
14 further down, Recommended Level of Disciplinary Action,
15 he was seeking a termination, or at least he -- he
16 checked on here "Termination for Cause"? Or did you --

17 MR. LANTIS: Object to form.

18 Q Did he check "Termination For Cause"?

19 A Yes.

20 Q Did you advise him on how to fill that one out?

21 A Yes.

22 Q Tell me about a conversation where termination was
23 discussed between you and Mr. Washington. Just tell me
24 what y'all talked about.

25 A I shared with DeWarren that John Reeves made the

1 decision to terminate Mr. Goforth based off of the
2 information that he had received. And I challenged
3 Mr. Reeves to ensure that, you know, the termination --
4 that we, you know, were making sure that everything was
5 shared with him, with all the detail that he needed.

6 And Mr. Reeves was very passionate in terminating
7 him for cause for falsification of records, and so I
8 worked with DeWarren and helped him fill this paperwork
9 out.

10 Q Did DeWarren give you any pushback at all on
11 termination being what was being sought?

12 A No.

13 Q What comments, if any, did he make about your
14 telling him that Mr. Reeves wanted it to be a
15 termination?

16 MR. LANTIS: Objection to form.

17 You may answer.

18 A I don't recall DeWarren making any comments.

19 Q Looking down at the bottom, the last question
20 there, "What was the contractor's rationale for the
21 issue?" And just read me what it says there as the
22 rationale for the issue.

23 A "Employee stated he signed for cleanliness and
24 acknowledgement of the manway covers being ready to
25 reinstall."

1 Q Okay. Did you write that?

2 A DeWarren wrote that.

3 Q Okay. Look at the next page, please.

4 It states there, does it not, a "No" block being
5 checked to the question "Was the contractor on clear
6 notice of any rules/expectations that were violated prior
7 to the event?"

8 A Correct.

9 Q Did you fill that out or did DeWarren fill that
10 out, where it says "No"?

11 A DeWarren filled it out.

12 Q Did you question DeWarren about that, putting "No"
13 there?

14 A Not that I recall.

15 Q And so I take it that where it says "Employee
16 stated he signed for cleanliness and acknowledgement of
17 the manway covers being ready to reinstall," that's --
18 was that written by DeWarren? Because it looks like
19 almost exactly the same language as under the
20 contractor's rationale that we just discussed.

21 A I believe so. I believe DeWarren filled out this
22 form.

23 Q Okay.

24 A I may not recall the details, but that's typically
25 how we complete these.

1 Q And then under -- if you go a little bit further
2 down it says -- you see the question where it says "Was
3 the action confirmed to be willful misconduct
4 (intentional/deliberate)"?

5 A Yes.

6 Q And it's checked "No." Do you know who checked
7 the "No" there?

8 A Yes. I believe it was DeWarren.

9 Q Did you raise any question to DeWarren at the time
10 that you received this, on November 5th, as to his
11 finding that the action was confirmed not to be willful
12 misconduct, intentional/deliberate?

13 MR. LANTIS: Objection to form.

14 A No.

15 Q Do you remember seeing that being checked at the
16 time as a "No" answer?

17 A No, I don't recall. I probably saw it.

18 Q But it didn't raise a question in your mind as to
19 whether a termination for falsification of documents
20 might be inappropriate, given this answer "No"?

21 MR. LANTIS: Objection to form.

22 A No, because in his position, he would be required
23 to fulfill his job duties properly. So, no.

24 Q Let's take a look at Document Number 8.

25 A Okay. I have it pulled up.

1 Q This appears on its face to be Mr. Washington
2 emailing you on November 6th of 2018, saying "Becca, I
3 think this is everything you will need for the ERB." Is
4 that correct?

5 A Yes.

6 Q And so are these the forms you sent him, and then
7 he's now sending them back to you, saying that he thinks
8 this is what you'll need for the ERB?

9 A Yes. It appears that way.

10 Q Okay, and we're going to start looking at the
11 bottom right-hand page numbers now, to make it easy to
12 navigate in the documents.

13 So let's take a look at the page that's marked 758
14 at the bottom right-hand corner.

15 A Okay.

16 Q And this is a document entitled, at the top,
17 Proposed Adverse Action Review Form for the ERB, correct?

18 A Yes.

19 Q And it's a five-page document, page 1, 2, 3, 4,
20 and 5 of 5?

21 A Yes.

22 Q And on the first page, that is, page 1 of 5, it
23 says that Mr. Goforth's title was task manager, correct?

24 A Yes.

25 Q And his role in his hire letter that we went over

1 earlier in your testimony said that his job title was
2 task manager for the tritium program, correct?

3 A Yes.

4 Q Were you aware at the time that this was filled
5 out that Mr. Goforth was assigned to the tritium program?

6 MR. LANTIS: Objection to form.

7 MR. MEALOR: Object to form.

8 MR. LANTIS: You may answer.

9 A Yes.

10 Q Take a look at page 2 of 5, which is the next
11 page.

12 A Okay.

13 Q And so in question 1 there it says, "To your
14 knowledge, has this individual engaged in any potentially
15 protected activity within the past 12 months?" Are you
16 with me?

17 A Yes.

18 Q Okay. And there's six or seven blocks that are
19 yes or no questions after that, correct?

20 A Yes.

21 Q And so my question -- first question is, did you
22 fill out any of those blocks under question 1?

23 A No.

24 Q So I take it then that since Mr. Washington sent
25 this to you, your understanding was that Mr. Washington

1 had filled in these blanks?

2 A Yes.

3 THE REPORTER: I'm sorry. Did someone
4 object?

5 MR. MEALOR: I did.

6 THE REPORTER: Thank you.

7 Q It says, as the -- I believe it's the fourth item
8 down, that Mr. Goforth contacted the legal department,
9 correct?

10 A Yes.

11 Q So did you ask Mr. Washington at the time what he
12 meant by Mr. Goforth contacted the legal department?

13 A Yes. I asked DeWarren why he checked "Yes."

14 Q What did he say?

15 A I believe he did it in error and then corrected it
16 later.

17 Q Well, my question was, what did he say when you
18 asked him why he checked that?

19 MR. LANTIS: Objection to form.

20 You may answer.

21 A That he did it in error.

22 Q He said, when you questioned him about this, when
23 you received it on November 6th, he said at that time
24 that he did that in error?

25 A Yes.

1 Q Was there any further discussion about him --
2 between you and him, about -- at this time, on contacting
3 the legal department?

4 A No. He was fairly new at filling these out. And
5 I shared with him that we hadn't contacted any of those.
6 So the only one that he would've checked in this -- on
7 this one would be "Contacted the Employee Concerns
8 Program," and that was it.

9 Q So you assured him that none of these things that
10 he checked Yes had in fact occurred, except for the
11 employee concerns program?

12 A Correct. Except for the employee concerns
13 program. Because we did contact them.

14 Q Did you at any time -- and I think you've already
15 answered this, but I want to make sure it's specific to
16 these things -- ask Mr. Goforth whether he had done any
17 of these things that are checked Yes here?

18 A No.

19 Q Did you specifically check with the legal
20 department as to whether he had -- Mr. Goforth had made
21 any contact there?

22 MR. LANTIS: I'm going to place a limited
23 objection.

24 If you inquired about whether Mr. Goforth had
25 ever contacted the legal department for purposes of

1 filling out this form, you may answer that question, but
2 I want to instruct the witness not to discuss any
3 privileged communication that she had with legal counsel
4 about Mr. Goforth.

5 Subject to that limitation, Becca, you may
6 answer the question.

7 Q What your lawyer is instructing you, and it's
8 appropriate, is that I don't want you to tell me anything
9 the legal department may have said. I just want to know
10 whether you contacted the legal department about this
11 question.

12 A No.

13 Q And I take it that would apply to both the TVA
14 legal department and the DZ legal department, that you
15 did not check with either one of those?

16 A That is correct. I did not check with either of
17 them.

18 Q And "Contacted the Employee Concerns Program," I
19 take it that would be what we've already gone over, as
20 the communication regarding Mr. Goforth having contacted
21 employee concerns as provided to you by Mr. Blackwell?

22 A That's correct.

23 Q And with whom, if anyone, did you check to
24 determine your advice to Mr. Washington that Mr. Goforth
25 had not participated in an investigation other than the

1 one currently at issue, the last item there? To whom did
2 you check about that, if anyone?

3 A I didn't check with anyone. I checked our HR
4 platform where we keep our investigations.

5 Q Did you check with anyone at TVA regarding this
6 question about investigations?

7 A No.

8 Q Now, it says, right beneath there where Yes is --
9 where -- let me start over so I'm not confusing you.

10 It says, right beneath the blocks that we've just
11 been talking about, "Employee has ongoing litigation
12 regarding employment with TVA." So is that your language
13 or is that Mr. Washington's?

14 A That would be DeWarren's language.

15 Q Did you and DeWarren talk about the reason he
16 wrote that?

17 A Not that I recall. But we would, in normal
18 practice, go over this form together.

19 Q All right. And so now let's look at page 761, at
20 the bottom.

21 A Okay.

22 Q Again, the same questions are there, under
23 Protected Activity Summary, where it's marked Yes for
24 Contacted legal, contacted an external regulatory agency,
25 and contacted employee concerns program. So, those look

1 like pretty much -- very similar to the other questions.

2 So did you fill those out, or did DeWarren?

3 A DeWarren.

4 Q I take it your previous testimony about these
5 three things that you've just given would be the same for
6 these blocks?

7 A That is correct.

8 Q Now, look at page 765, at the bottom right,
9 please.

10 A Okay.

11 Q And the top question there, where it's checked
12 "No," "Was the contractor on clear notice of rules and
13 expectations?" That's --

14 MR. LANTIS: Jim, sorry to interrupt, but at
15 least the document on the Box site, page 765 is omitted.

16 MR. MEALOR: The pages are transposed.

17 MR. LANTIS: Sorry. So it's after 766, I
18 guess.

19 MR. MEALOR: Yes.

20 MR. JOHNSON: I'm sorry they're out of order.
21 Are we all on the same page then, 765?

22 MR. LANTIS: Yeah.

23 MR. JOHNSON: Okay.

24 MR. LANTIS: Becca, are you good?

25 THE WITNESS: I'm good. Thank you.

1 MR. LANTIS: Sure.

2 BY MR. JOHNSON:

3 Q So, this is the same question that we went over in
4 the contractor notes that Mr. Washington had provided you
5 the day before, on November 5th, that we've already gone
6 over. So, that's unchanged in this November 6th draft of
7 the ERB documents. Am I correct?

8 A Yes.

9 Q Let's take a look at Document 9 now.

10 A Okay.

11 Q Let's focus first on the first email in time,
12 which is from John Reeves to you, dated November 12th,
13 halfway down the page. Are you with me?

14 A Yes.

15 MR. JOHNSON: And this, by the way, has
16 previously been identified as Exhibit 37. So it will not
17 be reintroduced.

18 Q So, let me just read, for brevity's sake here,
19 that email to you from John Reeves. And he also sent it
20 to Jon Hanner and copied it to DeWarren Washington.

21 But it says, "DeWarren and I just spoke by phone.
22 He does have an open question from TVA asking if this
23 type of action (termination and no rehire for 90 days) is
24 consistent with our company's past disciplinary actions.
25 I believe we agreed in our November 2nd meeting that we

1 were good to go. Agree?"

2 That's what it says there, right?

3 A Yes.

4 Q So do you recall a November 2nd meeting -- and I
5 would ask you to, for purpose of refreshing your memory,
6 that the -- we've already gone over a meeting of November
7 2nd with Mr. Reeves and Mr. Hanner and you. Do you
8 recall attending that meeting?

9 A Yes.

10 Q Okay. So, do you recall any discussion of the
11 company's past disciplinary actions at the November 2nd
12 meeting?

13 A Yes.

14 Q Could you tell us what you remember?

15 A I remember us talking about any type of similar
16 infraction that we've had in the past where we had a
17 falsification of records and it resulted in
18 termination --

19 Q Do you recall --

20 A -- that we shared with --

21 Q I'm sorry?

22 A That we shared with John Reeves.

23 Q Do you recall anything about that prior
24 termination? Where it was? Who was involved?

25 A I don't remember all of the details, no.

1 Q At any time in the November 2nd meeting, did
2 Mr. Reeves mention that Mr. Goforth gave him examples of
3 other employees who were more seriously disciplined than
4 he was?

5 MR. MEALOR: Object to form.

6 A No.

7 Q Do you recall him mentioning in particular that
8 employees working on the ice condensers during the outage
9 were not disciplined, despite their misconduct for the
10 same type of thing as him --

11 MR. LANTIS: Objection to form.

12 You may answer.

13 THE REPORTER: (To Mr. Johnson) I'm sorry.
14 The end of your question?

15 Q Do you recall any discussion -- let me just
16 shorten it for you. Do you recall any discussion at this
17 November 2nd meeting about workers working on the ice
18 condensers?

19 A No.

20 Q Okay. Let's take a look at Document 10. Just to
21 make sure we're together on this, this is a document
22 previously marked Exhibit 44.

23 Do you see that?

24 A Yes.

25 Q And it seems on its face to be an email from

1 Mr. Washington to you, dated November 12, 2018, correct?

2 A Yes.

3 Q And it says, "Becca, please see the attached
4 files. Also, see the attached comments from TVA HR,"
5 correct?

6 A Yes.

7 Q So once again, this seems to be an updated version
8 from Mr. Washington, as of November 12th, of the
9 documents that he had previously sent you on November
10 6th?

11 A Yes.

12 Q And let's start -- looking at the bottom
13 right-hand corners again, to make it easy to navigate
14 through the document, let's look at DZ page 815, the
15 bottom right-hand corner.

16 A Okay.

17 Q Are you with me?

18 A Yes.

19 Q And it still says on these fact -- contractor
20 fact-finding notes, it still says at the top that
21 Goforth's job title was task manager, right?

22 A Yeah.

23 Q So it still says "No previous disciplinary
24 actions," right?

25 A Correct.

1 Q And let's look at the second page of the
2 contractor fact-finding notes, DZ page 816.

3 A Okay.

4 Q It still says "No" to the question "Was the action
5 confirmed to be willful misconduct
6 (intentional/deliberate)?" It still says that, right?

7 A Right.

8 Q Let's look at DZ page 824.

9 A Okay.

10 Q It still says there, answer "Yes" to "Contacted
11 legal department, contacted NRC DOL, or other external
12 regulatory agency?" It still says "Yes" to "Participated
13 in an investigation?" Correct?

14 A Correct.

15 Q So, as of six days after your conversation of
16 November 6th that you previously testified to, all of
17 those blocks are still the same, right?

18 MR. LANTIS: Objection to form.

19 You may answer.

20 A Right.

21 Q Let's look at page 825 on that one.

22 A Okay.

23 Q In question 8 it says, "Have all witnesses and
24 relevant parties, including the individual in question,
25 been interviewed and are their statements documented and

1 included in the ERB package?"

2 So, my question about that is, did you conduct any
3 interviews of any witnesses about this event that the
4 Executive Review Board was meeting about?

5 A No.

6 Q And you knew at the time that if the ERB would be
7 following the recommendation by DZ in these documents
8 that Mr. Goforth would be fired?

9 MR. MEALOR: Objection to form.

10 MR. LANTIS: Objection to form.

11 A Can you rephrase the question?

12 Q Okay. You knew at the time that you were looking
13 at this and these questions were being answered that
14 there was a likelihood Mr. Goforth was going to be fired
15 if the ERB agreed with the recommendation of termination?

16 MR. LANTIS: Objection to form.

17 MR. MEALOR: Object to form.

18 A Yes.

19 Q Let's look at page 826.

20 A Okay.

21 Q All these questions on page 826 where there are
22 blocks, they're all still marked "Yes," about contacting
23 legal and external regulatory agency and ECP, right?

24 A Yes.

25 Q Okay. Let's go to page 828, please.

1 A Sure.

2 Q Okay. So the first time you ever saw this
3 would've been November the 12th, at the earliest, right?

4 A I don't recall, but it would appear, the way the
5 document is sent.

6 Q Yeah. All I'm saying is it's attached to --

7 A Yeah.

8 Q -- DeWarren's email to you of November 12th. So
9 you wouldn't have looked at it any earlier than November
10 12. That's the question. Right?

11 A Correct.

12 Q So, one of the things that Ms. Augustin is saying
13 here in her email on page 828 is under the heading
14 Fact-Finding. And then it says, does it not, "Question
15 regarding expectations is checked 'No.' Does that mean
16 he didn't know or understand the expectations for the
17 work to be performed?"

18 Do you recall having a discussion with
19 Mr. Washington about his contractor fact-finding notes as
20 a result of receiving this information, from
21 Ms. Augustin?

22 A I do believe -- I don't recall specifically
23 talking about that one. However, as part of our normal
24 practice that would be something that we would have gone
25 over.

1 Q Okay. Do you recall having a discussion about the
2 last item listed there on page 828 and continuing on 829?
3 And why don't you just read that for us, beginning with
4 the word "Probably" to the end where it says "Thanks,
5 Meshelle"?

6 A "Probably needs some additional work before the
7 ERB is scheduled. For my review, I'm not clear on the
8 basis for action. Falsification of records or because he
9 said he was signing off that the manways were ready to be
10 installed versus what the work order says (even though
11 there's no placekeeping on the step that the manways were
12 installed)."

13 Q Do you recall having a discussion with
14 Mr. Washington about that after you received these
15 comments?

16 A I don't recall having a conversation with him
17 about that. But again, it would be part of our normal
18 practice to review this and ensure we're aligned on the
19 paperwork.

20 Q But the ultimate result of this was the
21 termination was for falsification of records, correct?

22 MR. LANTIS: Objection to form.

23 You may answer.

24 MR. MEALOR: Object to form.

25 A Yes.

1 Q Do you recall at any time, looking at this comment
2 from Meshelle Augustin, whether you had a discussion with
3 anyone about whether Mr. Goforth's belief, as stated in
4 these documents, that he was not signing off on a note,
5 was perhaps credible? Any discussion about that with
6 anyone?

7 MR. LANTIS: Objection to form.

8 You may answer.

9 A Yes. I, as I'd stated previously, had challenged
10 John Reeves on the decision to terminate him for the
11 falsification of records, in which Mr. Reeves was very
12 passionate in his answer, to ensure that the work order
13 with Mr. Goforth, circle, slash, confirming that he did
14 in fact reinstall the manways cover. And in addition to
15 that, he had different statements and documentation that
16 he had shared where Mr. Goforth agreed that it was his
17 responsibility as part of his job and part of the work
18 order to in fact ensure that the manway covers were
19 reinstalled. And so that's the reason Mr. Reeves made
20 the recommendation for termination.

21 Q Did Mr. Reeves ever inform you that in his
22 interview, Mr. Goforth's position was that he was
23 acknowledging a note, not signing off on a work step?

24 A No, because Mr. Goforth did state that he was in
25 fact responsible for ensuring that the manway covers were

1 reinstalled.

2 Q Have you seen statements by Freddie Gibson and
3 Derek Pair about Mr. Goforth's position on the manway
4 covers being off?

5 A Yes.

6 Q Is that what Mr. Reeves was referring to as
7 Mr. Goforth's admission, that you've just testified
8 about?

9 MR. MEALOR: Object to form.

10 A Yes. To my knowledge.

11 Q Let's take a look at Document 11.

12 A It appears I'm not able to open this document. It
13 says it may be protected.

14 MR. LANTIS: Becca, just refresh your browser
15 and it'll let you in.

16 THE WITNESS: Okay.

17 Q Let me know if you're in the document.

18 A Okay. I have it up.

19 Q Does this document show that it's marked Exhibit
20 45?

21 A Yes.

22 Q And it seems on its face that it's a document from
23 DeWarren Washington to you, with a copy to Jon Hanner,
24 Jason Howard, and John Reeves, correct?

25 A Yes.

1 the day that they met, that's consistent with your memory
2 of events?

3 A Yes.

4 Q So let's look at page 873. Wait a minute. Let me
5 withdraw that question, because I think we need to take a
6 prior step to looking at that.

7 It says, in the email from Mr. Sanders to
8 Mr. Washington, on page 864, the first page of the
9 document that we're looking at, it says -- with respect
10 to the SCWE screening form that we've been talking about,
11 it says, "Question 4 has to be answered. NA is not
12 reasonable." Correct?

13 A Yes.

14 Q Now let's look at page 873.

15 And so that question 4 on page 873 says, does it
16 not, "Consider if the individual being evaluated is an
17 outlier either in a positive manner or negative manner in
18 the number of CRs/PCRs/safety issues identified, etc.
19 And if so, could the fact that there is an adverse
20 employment action being taken against them create a
21 perceived chilled work environment?"

22 And so that's the question that Mr. Washington had
23 said "NA" to, right?

24 MR. LANTIS: Objection to form.

25 A Right.

1 Q And so at this time you-all had 24 hours,
2 approximately, before the ERB meeting to fashion a
3 response to that?

4 A Yes.

5 Q So what efforts, if any, did you make to
6 determine, after getting this, that Mr. Goforth was an
7 outlier in either a positive or negative manner in
8 protected activity?

9 A I don't recall.

10 Q Okay. Then going back to the first page, 864.

11 A Okay.

12 Q It says, halfway down, "ERB proposed adverse
13 action review needs all blanks filled in." Are you with
14 me?

15 A Yes.

16 Q And it says, "Is his title really task manager?"

17 Do you recall having a discussion with

18 Mr. Washington about Mr. Goforth's title?

19 A I don't recall the specifics of our conversation.
20 But again, we would've reviewed this as normal practice.

21 Q Did his job title get changed after Mr. Sanders
22 questioned this on the forms -- on the proposed adverse
23 action form? Do you recall?

24 A I don't recall.

25 Q Okay. Then it says -- in Mr. Sanders' comment he

1 says that "Question 4 would be his work group, at a
2 minimum." That's what Mr. Sanders says, right, there on
3 page 864?

4 A Yes.

5 Q So if you look at page 876, at question 4, that's
6 another "NA" that Mr. Washington had put, correct?

7 A Correct.

8 Q And we've already identified that his work group
9 for his task manager position was tritium program.
10 Correct?

11 MR. LANTIS: Objection to form.

12 You may answer.

13 A Correct.

14 Q And going back to page 864, he's also
15 questioning -- that is, Mr. Sanders, that questions 6 and
16 9 are not answered on the proposed adverse action review.
17 He's saying that, right?

18 A Yeah. Looks like he has a question mark next to
19 those numbers.

20 Q Sure. And that's fair.

21 So let's look at page 877.

22 A Okay.

23 Q And question 6 was "Identify the rules or policies
24 violated, and attach copies of the rules/policies."

25 So that would be -- the rule violated you've

1 the day before the ERB on November the 21st, right?

2 A Correct.

3 Q So, he is attaching the ERB documents, according
4 to his email here, correct?

5 A Correct.

6 Q And he's saying Wednesday at 12:30. So -- well,
7 we'll just -- he's saying Wednesday at 12:30, right?

8 MR. LANTIS: Objection.

9 You can answer.

10 A Right.

11 Q All right. So, did you attend the ERB?

12 A Yes, I believe I did.

13 Q And did you attend by telephone?

14 A Yes.

15 Q Was there a video provided, or was it just by
16 phone?

17 A I believe it was just by phone.

18 Q Do you know whether you attended the entire
19 meeting?

20 A Typically with ERB reviews, they dismiss certain
21 individuals at the end before they complete the final
22 review.

23 Q Tell me everything you can remember about what was
24 said at that meeting. I know it was a long time ago, and
25 I'm not asking for, you know, exact quotes of what was

1 said. Just give me your sense, from beginning to end,
2 about what was said, if you can remember. Nobody's
3 asking you to speculate. Our usual practice, you know,
4 your lawyer doesn't want that, I don't want that.

5 We're just saying, according to your memory as we
6 sit here today, tell us what you recall about what was
7 said.

8 A I recall our operations management team -- I don't
9 recall if it was John Reeves or DeWarren Washington,
10 explaining the concern of what happened and the reason
11 for termination. But I recall them going through that
12 and just going through the forms. I don't recall any
13 specifics from that review board.

14 Q All right. So, did you have in front of you
15 during that meeting the document that we're looking at
16 now that's been marked Exhibit 49? Is that what you were
17 looking at during the meeting?

18 A Let me just review it really quickly. (Reviewing
19 document.)

20 Q And you might start with the email from
21 Mr. Sanders to you.

22 I'm sorry. Go ahead.

23 A I was looking through the document. So yes, this
24 would've been what we would have to review.

25 Q So this is what you were looking at and presumably

1 everyone else was looking at as you went through it
2 during the meeting?

3 MR. LANTIS: Objection to form.

4 A Yeah. Correct.

5 Q Okay. So let's look at the first page of this
6 document that was sent by Mr. Sanders to everyone. And
7 it's page 935 at the bottom right.

8 A Okay.

9 Q So let's go back to question 4, which is the one
10 that you testified previously to, that the day before had
11 been marked NA. And take a look at question 4 and the
12 response to it that's now in place of the NA.

13 A Okay.

14 Q So, was any protected activity that Mr. Goforth
15 may have been involved with, been discussed, other than
16 what it says here about CRs?

17 MR. MEALOR: Object to form.

18 A I don't -- again, I don't recall, like, the
19 specifics from that review board specifically. However,
20 the -- the purpose of the ERB (as stated), so I'm sure it
21 would've been discussed.

22 Q Do you recall Mr. Reeves or Mr. Washington -- I
23 don't think you could remember which one attended --
24 saying that in the interview by Mr. Reeves, Mr. Goforth
25 said that he was being targeted for protected activity?

1 MR. LANTIS: Objection to form.

2 Q Did that come up at the meeting?

3 A I don't recall.

4 Q All right. Let's look at question 6, which in
5 your prior testimony was not answered, as pointed out by
6 Mr. Sanders. And let's look at that. And let me know
7 when you've read all of number 6.

8 A (Reviewing document.) Okay.

9 Q And as you recall from your prior testimony, this
10 is the question that Mr. Sanders said at a minimum would
11 be his work group as persons impacted by the ERB
12 decision, right?

13 A Yes.

14 Q Okay. So, for brevity, let me just read what the
15 answer is now, in place of the previously blank answer.
16 "The major impact would be within the maintenance
17 services department. Due to working relationships, other
18 potential organizations would be the maintenance
19 departments would be mildly affected." Is that, is that
20 the answer that was provided to the ERB?

21 A Yes.

22 Q Okay. So anywhere in there does it mention
23 Mr. Goforth's tritium work group?

24 A Not that I see.

25 Q Okay. Do you recall any discussion at the meeting

1 that Mr. Goforth was a full-time task manager for the
2 tritium program?

3 A I specifically don't recall.

4 Q Okay. Let's look at page 937.

5 A Okay.

6 Q Look at that first sentence there and let me know
7 if you can tell me what NSCMP, in the first line, stands
8 for.

9 MR. LANTIS: I'm sorry. What page, Jim?

10 MR. JOHNSON: We're on 937.

11 A I don't know what that stands for.

12 Q Okay. Was there any discussion about that person
13 having been contacted, at the meeting, that you recall?

14 A Not that I recall.

15 Q Okay. And then under item 1 there, it's now
16 saying that the individual is being terminated for
17 falsification of records. That's now been filled in,
18 right? Item 1(a).

19 A Yes. Yeah.

20 Q And then item 1(b) as represented to the ERB at
21 its meeting, "Management's legitimate reason for taking
22 the proposed action (in other words, tell the workforce
23 about management's reasons - the antidote to a chilling
24 effect is the truth)."

25 And so what the answer there now is -- and I'm

1 reading for brevity here, "The investigation
2 substantiated that the individual falsified signed
3 documentation without performing field verification."
4 Correct? That's that answer?

5 A Correct.

6 Q Do you recall any discussion of that particular
7 item at the meeting?

8 A I don't recall talking about that particular item,
9 but I do recall them going over, like I said in the
10 beginning, the information as to, you know, why John
11 Reeves believed that he had falsified documentation.

12 Q Do you know if you provided this information in
13 1(b)? "The investigation substantiated that the
14 individual falsified signed documentation without
15 performing field verification," is that your language?

16 A I don't believe I filled that out.

17 Q Well, was it your understanding that the reason
18 that the document Mr. Goforth signed was false was that
19 he did not do a field verification before signing?

20 A Correct. That is correct.

21 Q And is that what Mr. Reeves explained to you as
22 the reason the document was falsified?

23 MR. LANTIS: Objection to form.

24 You may answer.

25 A Mr. Reeves believed that he had falsified the

1 documentation because the work order step was not
2 completed correctly.

3 Q And did he say that under the work order step he
4 should've gone and done field verification, actually gone
5 and looked?

6 A Yes.

7 Q Okay. Look at page 938.

8 I want to direct your attention to subdivision (d)
9 towards the top of the page.

10 A Okay.

11 Q Are you with me?

12 A Yes.

13 Q Okay. It says, "The status of the individual's
14 safety or other concern and management's commitment to
15 investigate and resolve the concern." That's what is on
16 the boilerplate of the SCWE mitigation plan, right?

17 A Correct.

18 Q And so then the answer in there is "The concerns
19 of the individual have been evaluated and addressed.
20 Management is committed to promptly addressing any future
21 concerns raised by the individuals."

22 Let me -- before you answer the question -- well,
23 I haven't posed a question yet, but let's -- I'm going to
24 give you a little bit of the information. Mr. Washington
25 previously testified that he took this language for this

1 answer directly from the documents sent by Mr. Sanders.
2 He cut and pasted it in there.

3 Would you have any knowledge of that?

4 MR. MEALOR: Object to form.

5 A I mean, I don't -- I think that that would be
6 possible, sure --

7 Q Okay.

8 A -- that he did that.

9 Q And so in your mind, were the concerns of
10 Mr. Goforth evaluated and addressed --

11 MR. LANTIS: Objection to form.

12 Q -- as of the ERB meeting?

13 MR. LANTIS: Objection to form.

14 A Yes.

15 Q And question number 3, this is the question that
16 was previously blank that you've already testified to.
17 It says, "Consider if the individual being evaluated is
18 an outlier either in a positive manner or a negative
19 manner in the number of CRs/PCRs/safety issues
20 identified, and if so could the fact that there is an
21 adverse employment action being taken against them create
22 a perceived chilled work environment."

23 And I apologize to the court reporter for having
24 read that so fast.

25 And so the answer to that that has now been filled

1 in is "The individual has written one CR within the year
2 and it is not believed that this action will result in
3 creating a perceived chilled work environment." That's
4 now the answer that's been provided, right?

5 A Correct.

6 Q Okay. So, was no other protected activity
7 discussed other than this one CR --

8 MR. LANTIS: Objection to form.

9 Q -- at the meeting? To your knowledge.

10 MR. LANTIS: Objection to form.

11 MR. MEALOR: Same.

12 A I don't recall all of -- any of the protected
13 activity that was discussed. But there was this one, the
14 one that was written that was sent back from Kenneth
15 Blackwell, was the one that we would be referring to,
16 that we believed was just a casual contact, was not a
17 protected -- I mean, it was a concern, but he said he was
18 going -- he wanted to handle it himself, he didn't want
19 it to be an actual concern. We treated it a little
20 bit -- as if it was. And our decision was made without
21 the -- it had nothing to do with any protected activity.
22 It was strictly due to the falsification of records.

23 Q Okay. Were you aware that Mr. Goforth had written
24 an evaluation about some safety incidents occurring
25 within the tritium program prior to his termination?

1 A No, I was not.

2 Q Did anyone mention that Mr. Goforth had written
3 this evaluation -- an evaluation about nuclear safety
4 prior to his termination? Did anybody bring that up at
5 the meeting?

6 A No. I didn't know about that, and I don't recall
7 anyone bringing that up at the time.

8 Q Did anyone bring up that a CR had been written by
9 an ECP investigator that incorporated Mr. Goforth's
10 evaluation?

11 A No. Not that I recall.

12 Q Did anyone bring up at the meeting the fact that
13 Mr. Goforth had pending litigation against TVA regarding
14 a promotion?

15 A No. Not that I recall.

16 Q Were you aware that there was pending litigation
17 with TVA regarding a promotion that Mr. Goforth did not
18 get?

19 A No.

20 Q All right. Well, we're going -- continuing
21 through this document that you've identified was the
22 document that you and others were looking at during the
23 meeting, the ERB meeting. And so let's take a look at
24 page 941.

25 A Okay.

1 Q On page 941, where it says employee title, that
2 has been changed from what it previously said, as you've
3 testified to, from task manager to boilermaker maker
4 correct?

5 A Correct.

6 Q Was there any discussion about why that was
7 changed, that you had with either Mr. Sanders or
8 Mr. Washington?

9 A I don't recall.

10 Q And taking a look at page 942 in the draft sent by
11 Mr. Sanders that everyone had at the meeting, the blocks
12 in question 1 have now been altered, correct?

13 MR. LANTIS: Objection to form.

14 Q From the prior draft. And so it now says "No" for
15 contact legal department, right?

16 A Correct.

17 Q It now says "No" for contacting NRC DOL or any
18 other external regulatory agency. It says "No" now,
19 right?

20 A Correct.

21 Q It still says "Yes" for contacted ECP. And now it
22 says "No" for participated in an investigation, right?

23 A Correct.

24 Q Do you recall any discussion with Mr. -- well,
25 I'll withdraw that question.

1 And if you look right underneath there, do you
2 recall that previously Mr. Washington's draft up to this
3 point had said that Mr. Goforth was engaged in litigation
4 with TVA? Do you recall that? We can look back at it if
5 you want. Do you recall it said that?

6 A Yes, I recall it said that.

7 Q And now it no longer says that, right?

8 A That's correct.

9 Q Let's look at page 943.

10 A Okay.

11 Q Question 8 says, does it not, "Have all witnesses
12 and relevant parties, including the individual in
13 question, been interviewed and are their statements
14 documented and included in the ERB package?" It says
15 that, right?

16 A Yes.

17 Q Were you present, by phone or otherwise, at the
18 interview of Mr. Reeves with Mr. Goforth?

19 A No.

20 Q Was there -- did you ever listen to a tape or -- I
21 shouldn't say tape anymore. That shows my age.

22 Did you ever listen to a recording of that
23 interview?

24 A No. I didn't know there was a recording.

25 Q Did Mr. Reeves ever say to you that there was a --

1 well, I guess he didn't if you didn't know, so let me not
2 ask that.

3 Did Mr. Reeves or Mr. Washington mention at the
4 ERB that there was a tape -- or, I'm sorry, a recording
5 of the interview?

6 A Not that I recall, no.

7 Q So it goes without saying then that no tape or
8 portions of the tape were played at the ERB meeting?

9 A No.

10 Q Was there a transcript of the interview ever made
11 of the recording, a written transcript?

12 A No. Not to my knowledge.

13 Q So, question 11 is about the individual's prior
14 performance history, correct?

15 A Correct.

16 Q Do you know who Jeff McGuire is?

17 A No.

18 Q So was there any mention of Mr. McGuire in the ERB
19 meeting?

20 A No. I don't know who Mr. McGuire is.

21 Q And so I guess it goes without saying that there
22 was no statement from Mr. McGuire about the individual's
23 prior performance history?

24 A No.

25 Q And Mr. McGuire did not attend the ERB?

1 MR. LANTIS: Objection.

2 You can answer, Becca.

3 A No.

4 Q So, question 13 is about "Is the proposed action
5 reasonably related to the seriousness of the offense and
6 actions taken with other individuals who have submitted
7 similar offenses?" That's at the bottom of page 943,
8 correct?

9 A Yes.

10 Q Did Mr. Reeves or Mr. Washington or anyone else at
11 the meeting state that Mr. Goforth had identified in his
12 interview people who he felt were treated differently
13 than he was being treated?

14 A No. Not that I recall.

15 Q And now looking, finally, at pages 946 and 947.
16 Let me know when you're there.

17 A I'm on page 946.

18 Q Okay. And that's the fact-finding notes from the
19 contractor that was done by Mr. Washington, correct?

20 A Correct.

21 Q And it still says -- well, let's see. If you look
22 at page 2, which is -- of the contractor fact-finding
23 notes, which is page 947, the question there, that's the
24 first one that has an answer filled in is "Was the
25 contractor on clear notice of any rules and/or

1 expectations that were violated prior to the event?"

2 That has now been changed from a "No" to a "Yes,"

3 correct? We've gone over -- well, let me just leave the
4 question there. See if you recall.

5 MR. LANTIS: I'm sorry, Jim, what's the
6 question?

7 Q Okay. The question is, to the question on the
8 form of "Was the contractor on clear notice of any rules
9 an/or expectations that were violated prior to this
10 event," previously in these drafts of the fact-finding
11 notes of the contractor that question was marked "No."
12 You've already testified to that when we looked at it,
13 right?

14 A Correct.

15 Q And now it says "Yes"?

16 A That is correct.

17 Q Do you recall any discussions with Mr. Sanders or
18 Mr. Washington about why that was changed on the
19 contractor fact-finding notes?

20 A I don't recall specifically. But I mentioned
21 before, DeWarren was fairly new to this. So, it was
22 probably just in error and we made sure that it was
23 correct.

24 Q It still says, does it not, further down on that
25 page, 947, "Was the actin confirmed to be willful

1 misconduct (intentional/deliberate)," it still says "No"
2 for that one, right?

3 A That is correct.

4 Q Let's look at Document 16 now.

5 Are you with me?

6 A Yeah. I have it pulled up now.

7 Q Does it say Exhibit 52 at the bottom?

8 A Yes.

9 Q All right. This document was previously
10 identified as Exhibit 52.

11 So, take a look through this. Just scroll through
12 it. Because my question to you is going to be is this
13 the ERB documents as finally signed by the members of the
14 ERB?

15 A (Reviewing document.) Yes, it appears these
16 documents have been signed.

17 Q I'm not going to laboriously take you through that
18 to compare it to the draft that Mr. Sanders sent right
19 before the meeting. We'll let the document speak for
20 itself on that now that you've identified it. Okay?

21 A Okay.

22 Q All right. So, finally, let's look at Document
23 17.

24 MR. LANTIS: Jim, there's no Document 17 in
25 the Box.

1 MR. MEALOR: Thank you.

2 MR. JOHNSON: There's not? Okay. Well,
3 let's look at -- Paul, can you pull up Exhibit 54 from
4 the plaintiff's exhibits and send it to the witness,
5 please?

6 MR. LANTIS: We'll work on that.

7 MR. JOHNSON: And this is probably my last
8 question, if everyone can hang on.

9 MR. LANTIS: Okay. I've got it pulled up.
10 Becca, do you have it?

11 THE WITNESS: Yeah. I've received it and I
12 have it pulled up.

13 BY MR. JOHNSON:

14 Q Referring to what's previously been identified as
15 Exhibit 54, this is the fact-finding notes of contractor
16 only. And it has, on page 2, the signature of
17 Mr. Washington, correct?

18 A That's correct.

19 Q And what's the date by that signature?

20 A 11/20/2018.

21 Q Do you recall whether this signed version of the
22 fact-finding notes was present at the ERB meeting?

23 A I don't recall if it was signed or not, but the
24 fact-finding form would've been part of the ERB review.

25 MR. JOHNSON: Okay. Let's take a five-minute

1 REPORTER'S CERTIFICATE

2 STATE OF TENNESSEE:

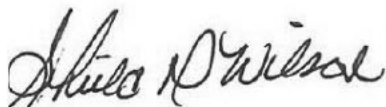
3 COUNTY OF HAMILTON:

4 I, Sheila D. Wilson, Licensed Court Reporter
5 #268 and Notary Public, in and for the State of
6 Tennessee, do hereby certify that the deposition of
7 REBECCA WHITEMAN was reported by me, and that the
8 foregoing 98 pages of the transcript is a true and
9 accurate record to the best of my knowledge, skills, and
10 ability.

11 I further certify that I am not related to
12 nor an employee of counsel or any of the parties to the
13 action, nor am I in any way financially interested in the
14 outcome of this case.

15 I further certify that I am duly licensed by
16 the Tennessee Board of Court Reporting, as evidenced by
17 the LCR number and expiration date following my name
18 below.

19 In witness whereof, I have hereunto set my
20 hand this 25th day of October 2021.

21
22
23
24
25


26 Sheila D. Wilson, LCR #268
27 Expiration date: 6/30/2022.
28 Notary Public Commission
29 Expires: 1/25/2023.

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

ROBERT M. GOFORTH,

Plaintiff,

vs.

TENNESSEE VALLEY AUTHORITY
and DAY & ZIMMERMANN NPS,
INC.,

Defendants.

)
)
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)
) Case No.: 1:20-cv-254
)
)
)
)
)
)

Chattanooga, Tennessee
September 10, 2021

DEPOSITION OF FREDDIE GIBSON
(Appearing remotely)

APPEARANCES:

FOR THE PLAINTIFF:

JAMES M. JOHNSON, ESQ.
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1 Q And I'll try to do the same for you. When you're
2 giving me an answer, I'll try to wait and make sure
3 you've finished giving your answer before I begin my next
4 question. So, I'll try to obey the same rules. Okay?

5 A Yes, sir.

6 Q And when you give your answers, please do so
7 clearly and in a high enough voice to where the court
8 reporter can pick it up, because she can't record answers
9 that involve saying things like "uh-huh" or "huh-uh" or,
10 you know, shaking the head, nodding the head. She can
11 only hear what you speak out loud. Understand that?

12 A I do.

13 Q Terrific. All right. Let's talk a little bit
14 about your experience in working at Day & Zimmermann.
15 How long have you been with Day & Zimmermann?

16 A I have been with Day & Zimmermann roughly 11
17 years. I think they got the contract in 2010 January.

18 Q All right. Thank you. And how much of that
19 experience has been at Watts Bar?

20 A I would say 95 percent.

21 Q And is that 95 percent the most recent of your
22 experience? That, in other words, five percent, would
23 that have been back at the beginning of the 11 years, or
24 is the 95 percent at Watts Bar, is that recent?

25 MR. LANTIS: Objection to form. You may

1 answer.

2 Q Is the Watts Bar experience your -- you're
3 currently working at Watts Bar, correct?

4 A That is correct. Watts Bar.

5 Q All right. And the times you've been away from
6 Watts Bar, when did they fit into this 11 years? At the
7 beginning? In the middle?

8 A 2016, 2017, possibly -- I'm trying to remember,
9 sir -- they sent me down to Browns Ferry Nuclear Plant as
10 the night shift site manager. Then I was also sent to
11 Sequoyah as the night shift site manager as well for an
12 outage, sir.

13 Q So you were doing the same type of work there that
14 you do at Watts Bar, but it was just at different plants?

15 A Yes, sir. Somewhat. That is correct.

16 Q So I take it, then, that you have a lot of
17 experiencing with performing work orders at these plants?

18 A Yes, sir.

19 Q And do you have a lot of -- is a lot of that work
20 order experience on BOP work orders?

21 A A lot of it would be, yes.

22 Q And with regard to BOP work orders that you have a
23 lot of experience with, would that be in actually doing
24 the work on the work orders?

25 A Not in the position I was in at Browns Ferry and

1 Sequoyah.

2 Q All right.

3 A Some here at Watts Bar, though.

4 Q Okay. So some of your experience was actually
5 doing the work. And so I take it then the rest of your
6 experience was sort of managing or supervising the work?

7 A That would be correct. Yes, sir.

8 Q And in managing or supervising the work, did you
9 sign off on work having been performed by those that you
10 were supervising?

11 A I have before.

12 Q And have you done work before on the work order
13 that's in controversy in this case, which I think you
14 know is a moisture separator work order? Have you done
15 work on moisture separator work orders?

16 A When you say I have worked on them, do you mean --

17 Q Well, either worked on them -- excuse me for
18 interrupting --

19 A -- reviewed them?

20 MR. LANTIS: Let him clarify the question, if
21 you wouldn't mind.

22 Q Go ahead.

23 A Do you mean reviewing work orders? I'm a
24 non-manual, so I'm not allowed to work on the equipment
25 itself.

1 Q Yes, I mean reviewing work orders.

2 A Yes, sir, I have reviewed.

3 Q And you've reviewed moisture separator work
4 orders?

5 A I have looked at various work orders, yes, sir.

6 Q Let's talk for a moment then about your knowledge
7 of Mr. Goforth's work. How long have you known
8 Mr. Goforth?

9 A I would say as soon as Unit 2 went online and he
10 came over. Maybe a little bit before that. So, let's
11 see, eight, nine years.

12 Q And how -- what was the nature of your work with
13 him? What was he doing in relation to what you were
14 doing?

15 A He was working outages as a boilermaker
16 supervisor. I also knew him when he worked over on Unit
17 2.

18 Q So, since the Unit 2 work was finished -- well,
19 tell us when the Unit 2 work was finished.

20 A I'm unsure exactly of the date, sir.

21 Q All right. But that would've been -- I think you
22 referred to it earlier as 2016 or so?

23 A General time frame, yes, sir.

24 Q And since then you have been at the same site as
25 him? Watts Bar?

1 A Yes, we've been at the same plant.

2 Q And he was working outages during that time?

3 A Also working over with TVA augmented and working
4 outages when they came around. Yes, sir.

5 Q So was he working, to your knowledge, in TVA
6 augmented all of the time except for the time when he
7 came over to do the outages?

8 A From my understanding, yes, sir.

9 Q And when you were working with him during the
10 outages, how frequently did you have occasion to see him
11 at work in that environment?

12 A Only at meetings mostly. I was on back shift most
13 of the time.

14 Q When you say "back shift," which shift are you
15 referring to?

16 A Night shift.

17 Q And so when you say you would see him at turnover,
18 so I take it he was doing day shift and you were doing
19 night shift, so you would just see him when turnovers
20 occur?

21 A During outages, yes, sir.

22 Q And during these outages did you have occasion to
23 know what his professional work was --

24 MR. LANTIS: Object --

25 Q -- in the outages?

1 work?

2 A When I got to work. I believe that's what it was,
3 sir.

4 Q And so in response to that information, were you
5 called upon to do anything?

6 A We looked into the work order. We went to see
7 what was off. And due to some of the employees already
8 being laid off due to the end of the outage, Mr. Goforth
9 was the lead, so we all decided to call him and get his
10 expertise.

11 Q Did you actually go to the site of the manway
12 cover being off and observe that it was off?

13 A Yes, sir.

14 Q Did you climb up the scaffolding and look at it at
15 that time?

16 A I did.

17 Q And what did you see when you got up there?

18 A Saw that there was a wide opening; manway was
19 sitting over to the right, I believe it was, and there
20 was some of the orange netting over there as well.

21 Q What is the orange netting used for?

22 A Used for MFE control, sir. It's over the opening
23 to prevent any foreign material getting into the system.
24 Or it could also be on the scaffold, to prevent items
25 from falling off the scaffold.

1 Q And so this particular one that you saw, was that
2 the one that would be the FME cover?

3 A Not sure of that, sir.

4 Q Can you tell me what the practice is for
5 boilermakers who have opened a manway cover is with
6 respect to using the cover?

7 A Yes, sir. Once the manway cover is recovered
8 initially and it is secured so it can't go anywhere, they
9 place the FME cover over the opening, whether it's either
10 zip-tied at the top or wired down so it can't go anywhere
11 while no one's working on that opening, sir.

12 Q And so the purpose of that, I take it, and correct
13 if I'm wrong, is just to make sure that no foreign
14 material gets into the opening?

15 A Yes, sir.

16 Q Is that a strict boilermaker procedure for the
17 boilermakers who are working on removing and installing
18 these manway covers?

19 MR. LANTIS: Objection to form. You may
20 answer.

21 A Yes, sir.

22 Q So what conclusion, if any, can you draw about the
23 likelihood that boilermakers working on the manway would
24 have left it without putting an FME cover over it?

25 MR. LANTIS: Objection to form. You may

1 answer.

2 A It would be unlike most any craft to leave the FME
3 cover off.

4 Q Mr. Goforth, I think you are aware, was of the
5 opinion that the manway was likely removed by someone
6 other than the boilermakers after it had been installed.
7 Given what you've just said, can you comment for us,
8 please, on that position that he took; that is, the
9 likelihood you think he could be right?

10 MR. LANTIS: Objection to form. You may
11 answer.

12 MR. BERNIER: Objection to form.

13 A Do you care to repeat the question? Are you
14 asking me if I believe someone else removed the manway?

15 Q No, sir. That's not exactly what I'm asking,
16 because I don't think anybody knows the answer to that
17 question.

18 What I'm asking is, given the procedures that the
19 boilermakers followed, that you just testified to, would
20 you think that there is at least some likelihood that
21 someone other than the boilermakers removed that manway
22 cover after it was installed?

23 MR. LANTIS: Objection to form. You mean
24 installed during the outage?

25 MR. JOHNSON: Yes. After it was reinstalled

1 during this outage.

2 MR. LANTIS: So you're presupposing it was
3 reinstalled?

4 BY MR. JOHNSON:

5 Q The question is, what do you think the likelihood
6 is that the manway cover was reinstalled and then removed
7 by other than boilermakers after it was reinstalled?

8 A I would be speculating, sir. That would be a
9 violation, without a work order, making sure the
10 individuals are all in clearance. So it would be, I
11 think, unlikely that somebody would just go up and take
12 it off. But that is just my opinion.

13 Q And you think it's -- also, I think in your prior
14 testimony, that it's unlikely that the boilermakers
15 would've left an FME cover off, who are working on the --
16 either the taking off of the manway or the installing of
17 the manway cover?

18 A I agree to that, yes, sir. I do not believe our
19 team would leave a manway FME cover off for no reason.

20 Q So is it just fair to say it's kind of a mystery
21 how that manway cover was found off?

22 MR. LANTIS: Objection to form. You may
23 answer.

24 A Yes, sir. It is uncertain.

25 Q So let's get back to where we were. You had

1 arrived at work and learned that the manway cover was
2 off. You went to the scene, climbed the scaffolding.
3 You just described what you saw. What did you do next?

4 A Went back to the war room, and we spoke of what we
5 seen and then came up with a plan on what we're going to
6 have to do to get the unit moving forward so we can get
7 back online.

8 Q All right. So that, I think, is a good point to
9 kind of pause. And I would like for you to help me sort
10 of set the scene of what goes on during the outage and
11 who the major characters are. Sort of
12 scene-and-characters questions.

13 So what was your job at this point in the outage?

14 A My job was still the site superintendent. That
15 would be to continue with our schedule, having insulators
16 reinstalling insulation, carpenters removing scaffolds,
17 and, in this case, getting another work order put
18 together or a modification to the work order so we could
19 get work steps and data sheets to get the manway back on
20 so that the operations group could pull vacuum and move
21 the unit.

22 Q So I take it that you were the sort of senior on
23 the ground DZ person for this part of the outage, as
24 you've just described it, during the night?

25 A Yes, sir.

1 communicate through emails, phone calls, or in person,
2 depending on what time it is for our meeting turnover, to
3 our liaison in the OCC.

4 Q And let's go below you a little bit. So, where
5 would Mr. Goforth -- well, let me ask it this way. On
6 this particular work order that we're involved with where
7 you found the manway cover off, who was the DZ night
8 shift person responsible for performance of that work
9 order?

10 A Benjamin Newell.

11 Q And who was the daytime counterpart for
12 Mr. Newell?

13 A Mr. Goforth, sir.

14 Q Give me a brief picture of what the setup is in
15 the war room. And maybe I can start you off with asking
16 you: Is there a large whiteboard in the war room?

17 A Yes, sir. There are multiple whiteboards in the
18 war room.

19 Q What are those whiteboards used for?

20 A Tracking various jobs. So, we would have one that
21 tracked safety. We'd have one that tracked number of
22 scaffolds built, remaining scaffolds built; how much
23 insulation has been removed; how many locations need to
24 be reinstalled. We would have fragnets on the
25 whiteboards that show where we're at in progress of

1 new data sheet, go up after we have verified everything
2 is correct and get the manway reinstalled, signed off,
3 work order completed and back to operations.

4 Q And so was Mr. Goforth to be a part of that plan
5 on getting this manway cover reinstalled?

6 A Yes, sir. He is our lead for BOP.

7 Q And so did you communicate this to Mr. Goforth?

8 A Yes, sir. Mr. Goforth, like I said -- even though
9 I had Benjamin Newell on night shift, Mr. Goforth had
10 experience and he was like what we would call the lead.
11 Yes, sir.

12 Q So, how did you communicate that to him, the plan
13 to him?

14 A In the war room we just went over the plan, which
15 was, like I said, to modify the work order, and then we
16 would work the work order, sir. It would have the work
17 steps and data sheet.

18 Q So did you have to call him in since it was at
19 night?

20 A It was early morning. But yes, sir, we did call
21 him in. He came in on his own time, sir.

22 Q And at this meeting where you went over the plan
23 with him in the war room, can you tell me, the best as
24 you can recall, what you said and what he said?

25 A I can't answer that, sir. That's been a long time

1 You can answer.

2 A I think this form right here that we filled out,
3 the prompt investigation that we're referring to, was the
4 initial what we discussed in the war room, went up to
5 investigate what was left off, come back to the war room,
6 discussed it, and then started doing our plan to get it
7 back on. So that would be the initial, sir.

8 Q Yeah. And that would be the prompt investigation
9 report that you just identified, that we've marked as
10 Exhibit 62, Document 2? That's the report of the prompt
11 investigation as you just described it?

12 A Yes, sir.

13 Q Your answer was yes?

14 A Yes, sir.

15 Q Okay. So, let's look down at the key learnings.
16 Are you with me?

17 A Yes, sir.

18 Q And so it says, does it not, as number 1, "The
19 completed data sheets versus the actual field conditions
20 were not validate by the immediate supervisor." Correct?

21 A Yes, sir.

22 Q So, for the boilermakers who were doing the actual
23 field work, who would've been their immediate supervisor
24 on the night shift?

25 A Mr. Benjamin Newell.

1 Q Okay. How about down from Mr. Newell, do you know
2 who his general foreman was and his foreman was?

3 A I apologize. I can't remember, sir.

4 Q All right. Well, would the general foreman or the
5 foreman be an immediate supervisor as well?

6 A Yes. The general foreman would be the next in
7 line, yes, sir.

8 Q Okay. And then down from the general foreman
9 there would be a foreman who was also an immediate
10 supervisor?

11 A Yes. The foreman would be the next one down, sir.

12 Q Okay. So, when you wrote this, you were saying
13 that the validation was not done by, in this case,
14 whoever that foreman was and that general foreman was
15 and, I believe you said, Mr. Newell?

16 MR. LANTIS: Objection to form. You may
17 answer.

18 MR. BERNIER: Objection to form.

19 Q That would be the immediate supervisor you're
20 referring to?

21 MR. LANTIS: Same objection.

22 You can answer, Freddie.

23 A Yes, sir.

24 Q Okay. So, looking at number 2, "The workers
25 involved in this scope of work did not validate they were

1 on the correct manway cover when completing the data
2 sheet." That's what key learning number 2 says?

3 A Yes, sir.

4 Q So, do you know who the boilermakers were that
5 were involved in this scope of the work?

6 A No, sir.

7 Q And whose job is it to tell those boilermakers
8 that this is the manway cover you're supposed -- to
9 actually be there with them and tell them this is the
10 manway cover you're supposed to be doing, whose job would
11 that be?

12 A From the foreman, then from the general foreman.

13 Q Thank you. Let's look at number 2 now, the prompt
14 investigation report that you stated that you were the
15 author of as well.

16 A Okay.

17 Q All right. So, event description, again it's
18 pretty much the same as was on the human performance
19 alert that we just went over. The event description
20 there is that while ops was attempting to establish
21 Unit 1 condenser vacuum they discovered the manway cover
22 we've been talking about was not installed, right?

23 A Yes, sir.

24 Q And you're saying the standard for the evolution
25 or condition there is "Validation of cross-under manways

1 should've been performed." Correct?

2 A Yes, sir.

3 Q And based on your human performance alert, that
4 should've been done by the boilermakers and the foreman,
5 general foreman, and possible night shift supervisor?
6 Correct me if I'm wrong about any of those.

7 MR. LANTIS: Objection to form.

8 MR. BERNIER: Objection to form.

9 MR. LANTIS: You can answer.

10 A The individuals that placed the manway cover on
11 and signed off the data sheets, yes, sir. Should've been
12 that crew all the way up through the foreman, general
13 foreman, supervisor.

14 Q All right. Thank you.

15 We're going to take a look at a document now,
16 because we referred to that CR in that document. Let's
17 take a look at Document 10.

18 A Okay.

19 Q Wait a minute. I'm sorry. I'm on the wrong --
20 that's the wrong document. It's Document 5. I'm sorry.

21 A Okay.

22 Q All right. Does that document appear to be a CR?

23 A Yes, sir.

24 Q And if you -- what's the CR number there at the
25 top, sort of top left?

1 A 1457849.

2 Q You don't have to look back at the document we
3 just went over, on the human performance report. Will
4 you take my word for it that that's the same number that
5 is on that document? Or do we need to look back at that?

6 A I believe it's the same number, sir.

7 Q And who does it say that the author of that -- of
8 the CR is?

9 A You're referring to the owner, sir?

10 Q Yes, sir.

11 A Washington, DeWarren.

12 Q And would the owner be the person that submitted
13 the CR, and his name?

14 A Yes, sir. At the very bottom of a CR, you hit
15 submit once you're complete.

16 MR. JOHNSON: Okay. Well, let's mark this
17 one as Exhibit 63.

18 MR. LANTIS: Jim, do you know whose
19 production this is out of, this document? It's not ours.

20 MR. JOHNSON: I don't see the production
21 number -- the page number on it, so I can't answer you
22 that for sure. It's the CR that DeWarren did, but I
23 can't tell you which production it came from.

24 (Exhibit 63 was marked for identification.)

25 BY MR. JOHNSON:

1 Q Let's look down at the cause and evaluation that's
2 on this CR. Please read over the key learnings and
3 takeaways that you see written there.

4 A Key learning number one --

5 Q Yeah. You don't have to read it. You don't have
6 to read those.

7 A Oh.

8 Q But just let me know when you've looked at the key
9 learnings and the takeaways.

10 A (Reviewing document.) Yes, sir.

11 Q I know this may be difficult for you to have to
12 switch back and forth to documents and you can't get them
13 both up on the screen at the same time. But if I
14 represent to you that the key learnings and takeaways are
15 identical to what you put in your human performance
16 alert, which was Document 1, does that look fair -- like
17 a fair statement? Or do you want to look back at
18 Document 1 to make sure?

19 A They look to be the same, sir.

20 Q So this looks like kind of a cut and paste that
21 Mr. Washington did from your human performance alert?

22 A I'm unsure if he cut and paste, sir.

23 Q But it's the same words?

24 A Same words, yes, sir.

25 Q If you look down at the bottom of that, it says

1 the resolution of this is to "Conduct a briefing to
2 reinforce expectations regarding validating work." Am I
3 reading that correctly, under Resolution?

4 A Yes, sir.

5 Q And do you know whether that briefing occurred
6 and, if it did, when it occurred?

7 A No, sir. I do not recall.

8 Q Do you recall when Mr. Goforth was terminated and
9 how you found out about that?

10 A Do not remember the exact day, sir, or exactly the
11 way I heard it, but I did hear that he was going to be
12 terminated, yes, sir.

13 Q All right. So you heard about that he was going
14 to be terminated before he actually was?

15 A Usually it is after an ERB is completed. So it
16 would've been after that sometime, sir.

17 Q So the termination cannot be done until the ERB
18 meets and approves it?

19 MR. LANTIS: Objection to form.

20 You can answer, Freddie.

21 A I'm not sure exactly how that works, sir.

22 Q Fair enough.

23 A I've never been on an ERB and never had to
24 terminate anyone.

25 Q So in your experience, when someone is terminated

1 from either DZ or TVA, does there have to be an ERB
2 performed before it can be done?

3 MR. LANTIS: Objection to form.

4 You can answer.

5 A I have never seen anyone terminated, sir, so I do
6 not recall how that would actually work. But
7 procedurally, we usually do an ERB if it's going to
8 affect an individual.

9 Q I see. And so is Mr. Goforth's termination the
10 only one that you know about from your time at
11 Day & Zimmermann?

12 A Yes, sir. As far as I can remember.

13 Q Getting back to this "conduct briefing to
14 reinforce expectations regarding validating work," do you
15 remember a morning meeting where Mr. Washington announced
16 to those attending the morning meeting that a person had
17 been terminated?

18 A I apologize, sir, I do not. It's been a long
19 time, sir.

20 Q Well, you may not have even been there. It was
21 just a question to see. So, I understand.

22 MR. LANTIS: Jim, are you going to put that
23 last -- that CR into the record?

24 MR. JOHNSON: Did we not do that already? I
25 think we did.

1 that's something you didn't have anything to do with when
2 you were referring to the manway cover being off?

3 MR. LANTIS: Objection to form.

4 Q When you were looking at the manway cover being
5 off?

6 MR. LANTIS: Objection to form.

7 You can answer.

8 A I did not go look at the cleanliness, no, sir.

9 Q So that wasn't something you were concerned with
10 when you were doing a prompt investigation into why the
11 manway cover was off, because it was just irrelevant as
12 to whether anybody verified cleanliness, correct?

13 MR. LANTIS: Objection to form.

14 You may answer.

15 A I was more concerned that did the FME cover get
16 pulled in when they tried to pull vacuum and why the
17 manway was off.

18 Q Okay. And I take it that you are familiar with --
19 based on all your experience that you've recited with
20 work orders, with all the policies and procedures
21 regarding the writing and the performance of work orders
22 at Watts Bar?

23 A Yes. Familiar with them, yes, sir.

24 Q All right. And so I'm going to tell you that
25 Mr. Goforth's position, as established in this suit so

1 far, is that when he signed this document he was
2 acknowledging a note of how he and other supervisors were
3 supposed to notify craft of their responsibilities. And
4 he signed it acknowledging the note, that that's how this
5 was to be done going forward. Based on your knowledge of
6 policies and procedures, do you find that an acceptable
7 understanding of what this says under "Note" here?

8 MR. BERNIER: Objection to form.

9 A So the first note, (as read) "Craft will notify
10 supervisor to observe pipe cleanliness, manway
11 cleanliness and accountability for all cleanliness
12 inspections prior to installing the manway covers.

13 "Responsible craft shall reinstall the manway
14 covers in accordance with MMTP-104..."

15 Repeat your question, sir.

16 Q Mr. Goforth's position has been that when he
17 signed this he was acknowledging the note that -- a note
18 that told him how the craft was to do the work, so that
19 he could appropriately instruct his subordinates in how
20 to do the work and document it, and that that's what he
21 was signing. He was acknowledging that that was -- that
22 it was a note that that's what he was supposed to do
23 under the policies and procedures. Does that seem like
24 an acceptable interpretation of the policies and
25 procedures as you know them?

1 MR. LANTIS: I'm going to object on --

2 MR. BERNIER: Objection to form.

3 MR. LANTIS: -- the characterization of
4 Mr. Goforth's position.

5 Subject to that objection, Freddie, you can
6 answer the question.

7 A The one that says "Verify cleanliness. Document
8 TI-27..." if that's the way he seen that -- poorly
9 written -- with the other two notes in there, that could
10 be possible, yes, sir.

11 Q All right then. Let me show you another document.
12 It's Document 12.

13 A Okay.

14 Q Are you with me?

15 A Yes, sir.

16 MR. JOHNSON: And this is for counsel's
17 information. You can disregard it, Mr. Gibson. But this
18 was previously entered as Exhibit 54, so I'm not going to
19 reintroduce it now.

20 Q Mr. Gibson, please take a look at this document,
21 the two pages of it, and let me know when you're ready to
22 talk about it. And I can tell you, I'm only going to ask
23 you questions about the second page of it that says page
24 2 of 2. Well, let me change. I'm going to ask you
25 primarily about page 2 of 2. I may have a question or

1 two on page 1 also.

2 A (Reviewing document.) Okay, sir.

3 Q So, looking at the first page -- let me ask you
4 this first. I take it this is a document you've never
5 seen that before; is that correct?

6 A I don't think I've ever seen this, no, sir.

7 Q All right. So, on the first page, at the very top
8 it says Factfinding Notes (Contractor Only). Correct?

9 A Yes, sir.

10 Q And then it says -- under Name it says Robert
11 Goforth, and under Manager it says DeWarren Washington.
12 Correct?

13 A Yes, sir.

14 Q And it says, under Contractor History, no previous
15 disciplines and no documented nondisciplinary actions,
16 correct?

17 A Was that on the same page?

18 Q Yeah. It's just under Contractor History there at
19 the top of the front page.

20 A Understood. Yes, sir.

21 Q All right. So, then we go down to the second
22 page, and let me direct you to about halfway down, where
23 there's a question that says "Was the action confirmed to
24 be willful misconduct, intentional or deliberate?"

25 Right? Are you with me?

1 A I am with you, sir.

2 Q Okay. And then down from there it says "Was a CR
3 written to document this offense?" Correct?

4 A Correct.

5 Q And it says "Yes." And then it lists the CR under
6 that, which is 1457849, correct?

7 A Yes, sir.

8 Q And is that the same CR number as the CR we just
9 went over that Mr. Washington wrote?

10 A Looks to be the same, yes, sir.

11 Q And is that the same CR that Mr. Washington took
12 your language from your human performance alert and put
13 into the CR?

14 MR. BERNIER: Objection to form.

15 MR. LANTIS: Objection to form as well.

16 Q I'll repeat the question. Is that --

17 MR. JOHNSON: And I understand the objections
18 apply. You don't need to object again.

19 Q Is that the same CR in which you testified earlier
20 that Mr. Washington incorporated your human performance
21 alert into the CR?

22 A That looks to be the CR, yes, sir.

23 Q All right. Now, so we're talking about what was
24 in that CR, meaning the manway cover being found off,
25 correct?

1 A Yes, sir.

2 Q Okay. And so it says there, above that, where it
3 says "Was the action confirmed to be willful misconduct,
4 intentional/deliberate?" It says that, right?

5 A It does.

6 Q And then down at the bottom it says that this
7 document was prepared by DeWarren Washington on November
8 8th, correct?

9 A Yes, sir.

10 Q And then it's signed by DeWarren Washington on
11 November 20th; is that correct?

12 A Yes, sir.

13 Q And so above where his signature is, where it says
14 "Was the action confirmed to be willful misconduct,
15 intentional/deliberate?" it's marked "No"; is that
16 correct?

17 A It is marked "No." Yes, sir.

18 Q So based on your prompt investigation and your
19 human performance alert and everything you know about
20 this manway cover being off, was Mr. Goforth's conduct in
21 signing the work order that we just went over willful,
22 intentional or deliberate misconduct?

23 MR. LANTIS: Objection to form.

24 MR. BERNIER: Objection to form.

25 Q Well, let me put it this way, would you agree with

1 Mr. Washington on this form that the action of
2 Mr. Goforth in placing his signature on the work order
3 was not willful misconduct, intentional/deliberate?
4 Would you agree with that statement?

5 MR. LANTIS: Objection to form.

6 MR. BERNIER: Object to the form.

7 A I would agree.

8 Q All right. It also says, "Does the offense create
9 notoriety upon or negatively impact the agency's
10 reputation?" Do you see where it says that?

11 A I do.

12 Q And would you understand the agency, since it says
13 "agency," to be TVA?

14 A I'm uncertain, sir.

15 Q Okay. Well, TVA is an agency of the United States
16 government, is it not?

17 MR. LANTIS: Objection to form.

18 Q To your knowledge. I mean, if you don't know, you
19 know, tell me.

20 A I didn't know if it's referring to DZ or if it's
21 referring to TVA, but...

22 Q Okay. Well, let's assume either one or both.
23 Would you agree that Mr. Goforth signing of that document
24 did not creat notoriety or negatively impact the agency's
25 reputation? Would you agree that it says "No" to that,

1 as signed by Mr. Washington?

2 MR. LANTIS: You're asking if he agrees that
3 the box is checked "No," not -- it's unclear what your
4 question is.

5 Q Well, we'll take it one step at a time. Would you
6 agree that the box says -- that's signed by
7 Mr. Washington, says "No"?

8 A Yes, the box is marked "No."

9 Q Okay. And do you agree that knowing what you know
10 about Mr. Goforth signing that document, as you've
11 testified to, and what happened with the manway cover
12 being off, would you agree that that's a correct
13 statement when it says "No"?

14 MR. BERNIER: Objection to form.

15 A Yes, sir.

16 MR. JOHNSON: Let's mark this one -- oh, this
17 one is previously marked as 54, so we don't have to mark
18 it.

19 BY MR. JOHNSON:

20 Q Excuse me for a moment here, Mr. Gibson. I'm
21 trying to locate another document.

22 Take a look at Document Number 4, please, sir.
23 Let me know when you're with me.

24 A So far it's not letting me download it. It says
25 "This document didn't load. The document may be

1 protected."

2 MR. LANTIS: Hey, Freddie, if you'll just
3 refresh that browser window that you're in, it should let
4 you download the document.

5 THE WITNESS: Okay. Hitting refresh now,
6 sir.

7 Thank you. All right.

8 BY MR. JOHNSON:

9 Q Okay. You want to look it over for a minute
10 before I talk about it? We're just going to talk about
11 this briefly.

12 THE REPORTER: Is this a prior marked
13 exhibit?

14 MR. JOHNSON: It's a prior marked.

15 THE REPORTER: What's the number?

16 MR. JOHNSON: It's 55.

17 THE REPORTER: On prior marked exhibits,
18 Mr. Johnson, if you'll call out the number, the actual
19 exhibit number, then I can link that up.

20 MR. JOHNSON: Terrific. So you've got
21 Exhibit 55 in the record now?

22 THE REPORTER: Yes.

23 BY MR. JOHNSON:

24 Q Let me know, Mr. Gibson, when you're ready to talk
25 about that document.

1 A I am on the second page.

2 Q All right. And there's an earlier email that is
3 from Ms. Edwards that is shown there, correctly --
4 correct?

5 A That is correct.

6 Q And does that email appear to you to quote the CR
7 1457849 and which also has your key learnings and
8 takeaways that you had put in your human performance
9 alert?

10 A It looks that way. Yes, sir.

11 Q Okay. So let's go back to the first page and look
12 at what Mr. Goforth styles there as his professional
13 opinions on actions to take.

14 The first one says "Work orders need to have child
15 work orders for each manway removed, just like Sequoyah
16 does on theirs. The current work order was deficient and
17 did not list the individual manway installations like it
18 did for the removals."

19 Is that what it says there under number 1?

20 A That is what you read, yes, sir.

21 Q And based on all of the experience that you
22 recited with work orders, and this particular work order
23 at issue, does that sound like -- well, let me ask it
24 this way. You can disregard my question up to then.

25 I think earlier you commented that the work order,

1 where Mr. Goforth signed it, was I think your words were
2 "poorly written"; was that correct?

3 MR. BERNIER: Objection to form.

4 A Where the work note was at?

5 Q Yes. When we went over the Section 3.13, where it
6 said "Note" and where Mr. Goforth signed as supervisor, I
7 think your comment about that part of the work order was
8 that it was poorly written; is that correct?

9 MR. BERNIER: Same objection.

10 A That is correct.

11 Q Would what Mr. Goforth is proposing here in number
12 1, would that improve the quality of the work order to
13 make it less likely that a manway cover would not be
14 reinstalled?

15 MR. BERNIER: Objection to form.

16 A It could help, yes, sir.

17 Q All right. Are you aware that in fact in the 2020
18 reiteration of this work order that that's exactly what
19 was done to this work step?

20 A I do not, sir.

21 Q All right. Let me show you then what's been
22 previously marked as Exhibit 28. It is your Document
23 Number 8. Let me know when you're you with me on
24 Document 28.

25 A On Document Number 8?

1 Q I'm sorry. Yes, Document Number 8.

2 A Yes. I'm looking at Document 8, and it says
3 Attachment A on top.

4 Q And then beneath that it says "Section 3.13,
5 Manway Cover Reinstallation," correct?

6 A Correct.

7 Q And is that the same section that we were
8 referring to earlier that said "Note" and then that
9 Mr. Goforth signed?

10 MR. LANTIS: Objection to form. You can
11 answer.

12 Q We can look back at the work order.

13 A It looks the same, except for the "verified
14 cleanliness." Looks like the procedure changed. It says
15 "MMTP-112" instead of "TI-27."

16 Q Oh, good point. Good catch. Okay. Other than
17 that, does it appear to be the same section, except now
18 it's got a whole bunch of sign-offs for each cross-under?

19 A It does. It says "critical stepdown." And it
20 also says "highly skilled supervisor."

21 Q Okay. And then if you look at all three of the
22 pages of this, it includes ten signature lines for craft
23 supervisor for all ten of the manway covers, does it not?

24 A That looks to be correct, yes, sir.

25 Q And it says that the craft supervisor is to sign

1 it. So would that be the level we talked about earlier,
2 like the foreman or the general foreman or the supervisor
3 for the shift, the shift supervisor?

4 A It looks like all these signatures are
5 supervisors, not general foremans or foremans.

6 Q Okay. And now there are ten signatures, one for
7 each manway cover, instead of just the one signature
8 between the note that was on the one Mr. Goforth signed,
9 right?

10 A Yes, sir. There's more work steps and more
11 detail.

12 Q Okay. So looking back then at the document that
13 we were previously in, Mr. Goforth's email to Sherrie
14 Lynne about his professional opinions on what to improve
15 the work order, does that look like that in fact the work
16 order was changed to implement Mr. Goforth's suggestion?

17 MR. BERNIER: Objection to form.

18 MR. LANTIS: I'll join the objection.

19 A I think it had said a child work order. Is that
20 what it said? Not modify the original work order, but it
21 said child work order.

22 Q Well, other than the child work order -- instead
23 of the child order, it does list each individual manway
24 installation like it did for the removals. It does -- it
25 did require the ten sign-offs for the installations like

1 it did for the removals, correct?

2 MR. LANTIS: Objection to form.

3 A Yes, sir. It improved that section.

4 Q Okay. And you may not know the answers to these
5 now, but I'll ask just to see if you do. If you look at
6 number 4, it says "Each cross-under needs to be
7 individually marked and etched on both the installation
8 cover and the manway itself that clearly identify the
9 manway."

10 My understanding is that now the way this is done
11 is, for performing this work order, is that there are
12 little cards that are hung on strings down from the
13 manway cover when it's taken off that lists the -- like
14 1A2C, you know, the name of that manway, and it's hung
15 down on the card to the floor level. Are you familiar
16 with that? Have you seen that done since?

17 A I have not seen that hanging to the floor, no,
18 sir.

19 Q Okay.

20 A From my understanding, they were supposed to put
21 another piece of metal over the metal that's up there
22 with the nomenclature on it.

23 Q Okay. And have they done that?

24 A I haven't went and verified, sir.

25 Q Take a look at your --

1 MR. BERNIER: Hey, Jim. If you're about to
2 move into another section, would now be an okay time for
3 a break?

4 MR. JOHNSON: Yeah. We can break now, but I
5 think this is probably pretty much my -- I think I've got
6 maybe -- I've got one more document, and then I think I'm
7 going to be asking Mr. Goforth if we're ready to wrap up.
8 We can take a break now, or we can take a break...

9 MR. BERNIER: If that's where you are, we can
10 continue.

11 MR. JOHNSON: Okay. We'll just finish this
12 one document and then we'll take a break, and we may be
13 done.

14 BY MR. JOHNSON:

15 Q All right. Take a look at your Document Number 3,
16 please.

17 A Okay.

18 Q This purports on its face to be, does it not, an
19 email from you of October 21st, 2018 to DeWarren
20 Washington, correct?

21 A Yes, sir.

22 Q And it is about the manway cover conversation.
23 That's the subject, correct?

24 A Yes, sir.

25 MR. JOHNSON: All right. Let's mark this one

1 as Exhibit 64.

2 (Exhibit 64 was marked for identification.)

3 BY MR. JOHNSON:

4 Q Do you recall having done this email, Mr. Gibson?

5 A I do.

6 Q And would you read the first sentence of it,
7 please?

8 A "On 10/19/2018, we had Mr. Robert Goforth come
9 into the plant and discuss the issue with the manway that
10 was not installed but was signed off in the work order
11 and also on the data sheet."

12 Q All right. So I just want to take you back to
13 that day and ask you, please, to identify who was present
14 when Mr. Goforth came to the plant to discuss the issue
15 as you state here.

16 A On the very last sentence it identifies who was
17 there.

18 Q Okay. And do you remember, sitting here today,
19 that those folks were there?

20 A All except for Mr. Jeff Wilson. I don't recall
21 that.

22 Q Okay. And so tell me, the best as you can
23 remember, who said what, beginning at the beginning of
24 that conversation.

25 A Other than what I've written, sir, I really don't

1 remember everything that transpired right there. That
2 was a long time, air.

3 Q Okay. Fine. So who, if anyone, asked you to send
4 this email?

5 A I think it was Mr. Derek Pair had got ahold of me
6 and said that Mr. Washington wants us to make sure we get
7 a written statement in on what had happened.

8 Q And would this be your statement in response to
9 that request by Mr. Pair?

10 A Yes, sir.

11 Q And so your -- go ahead and read what you're
12 saying there, where it says "Mr. Goforth said..."

13 A "Mr. Goforth said that the overall responsibility
14 was on him and Mr. Benjamin Newell, who are the
15 supervisors on days and nights shift for the balance of
16 plant work. We tried to contact the individuals who
17 signed the paperwork, but neither answered their phones."

18 Q Okay. Let's talk about that last little piece
19 first. Were you ever made -- able to make contact with
20 either of the individuals who signed the paperwork but
21 didn't answer their phone that day?

22 A I'm sorry, sir, you broke up. I couldn't hear
23 you.

24 Q Okay. My question was, if you look at the second
25 part of that statement there, "We tried to contact the

1 individuals who signed the paperwork, but neither
2 unanswered their phones." Were you ever able to reach
3 either of those individuals who signed the paperwork but
4 you couldn't get them that day? Were you ever able to
5 reach them? And I mean you.

6 A I don't recall, sir. I know I didn't get ahold of
7 the two craft individuals. I can't remember if I got
8 ahold of Mr. Newell or not.

9 Q All right. Do you know if anyone else ever got
10 hold of those individuals?

11 A I do not, sir.

12 Q Okay. And on your statement about Mr. Goforth
13 took overall responsibility for himself and Mr. Newell,
14 did you take that to mean that Mr. Goforth had
15 fraudulently and with intent to deceive signed that work
16 order where he did that we've talked about?

17 MR. BERNIER: Objection to form.

18 A Could you repeat the question?

19 Q Let me -- I'll withdraw the question that way.
20 Let me ask this way. What did you understand him to mean
21 when he said that the overall responsibility was on him
22 and Mr. Newell?

23 A I expected it to come from any of the supervisors,
24 sir. They owned the work.

25 Q Right. And so you -- you're a military veteran,

1 are you not, sir?

2 A Yes, sir.

3 Q What service did you serve in?

4 A Army.

5 Q And you're aware -- were you aware that
6 Mr. Goforth is a Navy veteran?

7 A I did.

8 Q And tell me if I'm characterizing this
9 incorrectly. But is this kind of the concept from
10 military service that if it happens on your watch, it's
11 your overall responsibility?

12 MR. BERNIER: Objection to form.

13 A In the military, yes, sir, we are responsible for
14 the personnel that are assigned under us.

15 Q And did you take it that that's what --
16 essentially what Mr. Goforth was saying, and as you wrote
17 here, for him and Mr. Newell?

18 MR. LANTIS: Objection to form.

19 Q Essentially --

20 MR. BERNIER: Objection to form.

21 Q Essentially the same thing as in the military?

22 A I did take it that way, sir, that he was referring
23 to he, as the leader over the BOP, and he takes
24 responsibility for his people.

25 Q And I take it, based on your prior testimony, that

1 that did not mean that he had fraudulently signed that
2 document that we talked about earlier? You did not take
3 him to have said that?

4 MR. LANTIS: Objection to form.

5 MR. BERNIER: Objection to form.

6 A No, sir.

7 MR. JOHNSON: I think that may be all the
8 questions I have for you, Mr. Gibson. We'll take a
9 little break here as requested by Mr. Bernier and then
10 we'll reconvene.

11 Is 10 minutes adequate, Mr. Bernier?

12 MR. BERNIER: It is to me, yes.

13 MR. JOHNSON: Everybody okay with 10 minutes?

14 MR. LANTIS: Yes.

15 MR. JOHNSON: Okay. It's 10:29. So, say
16 10:35 we'll reconvene.

17 (Recess.)

18 BY MR. JOHNSON:

19 Q Mr. Gibson, thank you for your patience. I have
20 just a few more questions for you. And the first one is,
21 do you know who John Reeves is?

22 A Yes, sir.

23 Q Who is John Reeves, professionally at
24 Day & Zimmermann?

25 A Mr. Reeves is a VP with DZ. He's one of our main

1 leadership personnel.

2 Q And do you know what his position was back at the
3 time that Mr. Goforth was terminated?

4 A I think the title was director of operations over
5 the three sites.

6 Q The three sites being what?

7 A Browns Ferry, Watts Bar, Sequoyah Nuclear Plants.

8 Q Did John Reeves ever contact you regarding the
9 manway cover being off at any time from it being found
10 off until Mr. Goforth was terminated?

11 A Say the question again, sir. I apologize. I
12 coughed.

13 Q Did John Reeves ever contact you regarding the
14 manway cover being off at any time from the time it was
15 found off until Mr. Goforth was terminated?

16 A I do not recall. Unless you're referring to when
17 he came on-site.

18 Q Well, when did he --

19 A I don't remember a phone call.

20 Q Do you -- when did he come on-site that you're
21 referring to?

22 A Not sure exactly the date, but as one of our
23 leaders he came to the site to help with looking over
24 what had happened with the manway.

25 Q Okay. Did he talk to you during -- when he came,

1 about the manway being off?

2 A I'm sure he did, yes, sir.

3 Q Do you recall any of that conversation?

4 A I do not, sir. I apologize. I do not.

5 Q Do you know how long -- well, during the time that
6 you're aware of that he was at Day & Zimmermann, would he
7 ever be in a position where he was actually performing
8 work orders at Watts Bar?

9 MR. LANTIS: Objection to form.

10 You may answer.

11 A No, sir. He would not be implementing work.

12 Q Would he be an on-site supervisor for people who
13 were implementing work?

14 MR. LANTIS: Objection to form.

15 You may answer.

16 A He would not be a supervisor directing any work or
17 over any of our supervisors. He would be over our
18 manager. And he would be over all of us, but he would be
19 over Mr. Washington.

20 Q Correct. But he would not be one of the
21 supervisors or managers whose job it was to make sure
22 work orders were being done on the floor?

23 A That would be a fair statement, yes, sir.

24 Q Were you aware, prior to the time that Mr. Goforth
25 was being terminated, that he had an ongoing case going

1 on with TVA at the -- either the Office of Special
2 Counsel or the MSPB?

3 A No, sir.

4 Q Were you aware that he was involved in any --
5 let's call it litigation with TVA regarding his work
6 before he was fired?

7 A No, sir.

8 Q Were you aware that Mr. Goforth had written an
9 evaluation of the performance of workers in the cycle 14
10 tritium program?

11 A No, sir.

12 Q Were you aware of an event where there was a video
13 of a tritium rod assembly being dropped? Were you aware
14 of any videos regarding anything about TPBARS in cycle 14
15 of the tritium program?

16 A No, sir. The only thing we heard was a CR was out
17 there about -- we thought it was something bent possibly.
18 But that's been so long ago, sir, not sure.

19 Q And who did you discuss this thing being bent
20 with, if anyone?

21 MR. LANTIS: Objection to form.

22 You may answer.

23 Q Do you recall discussing that event you just
24 described with anyone?

25 A Nothing directly with anyone, no, sir. Usually

1 when a CR comes out it's for information so that people
2 don't make any of the same type mistakes.

3 Q Did you get that CR?

4 A I didn't personally get the CR, no, sir.

5 Q Did you discuss the CR with anyone who did get the
6 CR?

7 A Not that I recollect, no, sir.

8 Q Do you know if Mr. Washington got the CR?

9 A I do not.

10 Q Other than Mr. Washington, who we've already
11 talked about, did you discuss the manway issue being off
12 with any of the following people? And I'll list people
13 by name, okay? Did you discuss it with Tony White?

14 A I do not think so, no, sir.

15 Q Do you remember Tony White making any comments
16 about Mr. Goforth?

17 A No, sir.

18 Q How about Paul Simmons, do you recall him making
19 any comments about Mr. Goforth?

20 A No, sir.

21 Q What about Jeff Miller, do you recall him making
22 any comments about Mr. Goforth?

23 A No, sir.

24 Q Jason Howard?

25 A No, sir.

1 Q Jesse James?

2 A No, sir.

3 Q Rebecca Rodgers?

4 A No, sir.

5 Q All right. This is my last little few questions
6 here, and it's going to be about these human performance
7 alerts like the one you did that was your Document Number
8 1.

9 How frequently are these human performance
10 alerts -- and I'll be talking about 2017-2018 period,
11 while you were there. How frequently were these human
12 performance alerts circulated?

13 A Usually when there was a substantial event,
14 whether it's an injury or an accident, plant damage, or
15 something of the nature like the manway not being
16 reinstalled, sir.

17 Q Okay. But I mean were these frequent -- let me
18 put it this way, how many of them do you think you did --
19 you have done, just estimate ballpark, during your time
20 at DZ?

21 A I'm not certain, sir. Quite a few.

22 Q Okay. And by "quite a few," you mean like more
23 than 10?

24 A Sounds about right, sir.

25 Q Okay. And have you ever known anyone to be fired

1 that you -- I think earlier you said you don't know
2 anyone who's been fired. But just to be clear about it,
3 anyone ever fired, to your knowledge, that was the
4 subject of a -- whose activities were the subject of a
5 human performance alert?

6 A Not that I can recollect, no, sir.

7 MR. JOHNSON: Mr. Gibson, thank you very much
8 for your time. I know you've been up all night. We
9 appreciate your being here. And I'm finished with my
10 questions.

11 Other counsel may wish to ask you some
12 questions.

13 MR. BERNIER: I have a few follow-up here.

14 Paul, I didn't know if now is a good time for
15 me to go, if you wanted to do something here.

16 MR. LANTIS: No, go ahead. Okay.

17 EXAMINATION

18 BY MR. BERNIER:

19 Q Mr. Gibson, we haven't met yet, but my name is
20 Mike Bernier. I'm an attorney with TVA. Thank you for
21 your time this morning, especially after a long night. I
22 really appreciate it.

23 A Yes, sir. Thank you.

24 Q I'll try to be as quick as possible.

25 I want to turn back to the manway incident. It's

1 A To my best ability, I thought that they were doing
2 an ERB, Executive Review Board, sir, but not a hundred
3 percent sure. It's been a while. Apologize.

4 Q So, were you aware of whether John Reeves was
5 doing any type of investigation or evaluating
6 individuals' conduct related to that incident?

7 A Not a hundred percent sure, sir, but I know he did
8 ask questions, you know. Because he would be like the
9 rest of us, trying to figure out what happened.

10 Q What he was doing, was that separate from what you
11 initially did when coming to your prompt investigation
12 report?

13 A No, not really. I thought he was doing the same
14 thing, sir, just going back over the steps, how did we
15 get here, you know. And to do that, we really needed to
16 talk to the two individuals and the supervisor that was
17 on nights.

18 Q Okay. So you are aware that he was looking into
19 the issue as well, right?

20 A Yes, sir. Pretty much all of us were, yes, sir.

21 Q Okay. I want to turn back to the work order. And
22 if you still have the documents in front of you, this is
23 Document 7. And it was our previous Exhibit 27. Let me
24 know when you have that pulled up in front of you.

25 A What was the document number again, sir?

1 Q Document Number 7.

2 A Okay.

3 Q If you could go to the last page. It's the one
4 that says Attachment A and then 3.13, Manway Cover
5 Reinstallation up top.

6 A Yes, sir.

7 Q Okay. You were asked a good bit about this
8 earlier, but I want to focus on Mr. Goforth's signature.
9 What did Mr. Goforth's signature signify to you on this
10 document?

11 A (Reviewing document.) "Manway cover
12 reinstallation," then the note, "craft..." That the
13 cleanliness was verified. I guess when I first looked at
14 it, sir, it would be "Verify cleanliness. Document on
15 TI-27," and that the other prerequisites were met. But
16 it is poorly written as a note.

17 Q I understand what you're saying there. But to
18 clarify what you're saying, does his signature signify to
19 you that the steps on the notes have been completed?

20 MR. JOHNSON: Object to form of the question.
21 He's already testified what it signified to him.

22 A Yes, sir. Only because of the 3.13, where it says
23 "Manway cover reinstallation." But the "Note" does cause
24 some uncertainties.

25 MR. BERNIER: Okay. I have no further

REPORTER'S CERTIFICATE

STATE OF TENNESSEE:

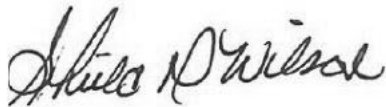
COUNTY OF HAMILTON:

I, Sheila D. Wilson, Licensed Court Reporter #268 and Notary Public, in and for the State of Tennessee, do hereby certify that the deposition of FREDDIE GIBSON was reported by me, and that the foregoing 82 pages of the transcript is a true and accurate record to the best of my knowledge, skills, and ability.

I further certify that I am not related to nor an employee of counsel or any of the parties to the action, nor am I in any way financially interested in the outcome of this case.

I further certify that I am duly licensed by the Tennessee Board of Court Reporting, as evidenced by the LCR number and expiration date following my name below.

In witness whereof, I have hereunto set my hand this 26th day of September 2021.



Sheila D. Wilson, LCR #268
Expiration date: 6/30/2022.
Notary Public Commission
Expires: 1/25/2023.

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TENNESSEE
3 AT CHATTANOOGA

4 ROBERT M. GOFORTH,
5 Plaintiff,

6 vs.

Case No: 1:20-cv-254

7 TENNESSEE VALLEY AUTHORITY
8 and DAY & ZIMMERMANN NPS,
9 INC.

10 Defendants.

11 Chattanooga, Tennessee
12 August 19, 2021

13 DEPOSITION OF DeWARREN WASHINGTON

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1 answer.

2 BY MR. JOHNSON:

3 Q. I'm sorry. What is your current job at
4 Day & Zimmerman?

5 A. Site manager for Day & Zimmerman at Watts Bar
6 Nuclear Power Plant.

7 Q. And was that the job that you held at the
8 time Mr. Goforth was terminated?

9 A. Yes, sir, I was just hired in in that
10 position.

11 Q. When were you hired into that position?

12 A. Just before that particular outage, which was
13 late that spring. I don't know the exact date, but
14 it was that spring before that fall outage.

15 Q. So that would have been the late spring of
16 2018?

17 A. Yes, sir.

18 Q. And prior to that, where were you working?

19 A. I went to start my own business, but prior to
20 that I was a construction supervisor when I hired in
21 with TVA in 2012.

22 Q. Okay. Let me -- you're going a little bit
23 fast for me. If I can stop you on what you just said
24 about the -- you went into private business before
25 you got hired in the spring of 2018?

1 concerns.

2 So with regard to the Cusick CR that you're
3 looking at now, does the information I just gave you
4 refresh your memory any better as to whether you've
5 seen that before?

6 A. No, sir.

7 Q. Have you seen it in your preparation for this
8 deposition today?

9 THE WITNESS: Do I answer that, Paul?

10 MR. LANTIS: Actually, no, I'm going to
11 instruct him not to answer on attorney/client
12 privilege. The documents that were shown by counsel
13 to a witness in preparation for a deposition are work
14 product and attorney/client privilege.

15 MR. JOHNSON: Well, I don't think their
16 identification is privileged or work product. I
17 think what any legal advice was is privileged, but I
18 don't think just identifying what he looked at, I
19 think I can ask him -- if I had just point blank
20 asked him, Did you look at any documents in
21 preparation for your deposition, I don't think you
22 would have objected because I would have then said,
23 Well, what documents did you look at, and I've never
24 known that to be objected to. All we're doing is
25 identifying the documents. I'm not going to ask him

1 Q. And that would be within the maintenance
2 department that you --

3 A. No, sir.

4 Q. -- were in?

5 A. Big picture maintenance, yes, but specific
6 department, no.

7 Q. Okay. Well, does the big picture maintenance
8 get the same notice of CRs that the department under
9 it gets?

10 A. No, sir, I wouldn't have seen the CR and I
11 didn't see the CR.

12 Q. Okay. And I think the CR may have
13 actually -- if you look at the date on it, it's
14 November 2017. So that may have been during that
15 interlude when you were in your own business.

16 A. Yes, sir.

17 Q. Would that be true? So that's one reason why
18 you may not have gotten notice of it.

19 So let me, then, get to this point. Did
20 after you came back on board -- in the spring of 2018
21 I think you said; correct?

22 A. Roughly, yes, sir.

23 Q. And at that time you came back as the site
24 manager?

25 A. Before the site manager I came back to -- as

1 too much, so I need to be corrected about that every
2 now and then.

3 All right. So your reporting structure was
4 up to who once you became the site manager?

5 A. Jason Howard was our ops manager, and
6 Mr. John Reeves, who was our director at the time.

7 Q. Okay. And so who then reported to you?

8 A. Mr. Freddie Gibson, which is our general
9 superintendent; our planning manager at the time, I
10 think, was Mr. Robin Keys; our project controls
11 manager, Mr. Matt Summers, and everybody who would
12 directly report to those individuals.

13 Q. And that would go right on down through the
14 line to the lowest on the ladder there at Watts Bar
15 site?

16 A. Yes, sir, for Day & Zimmermann.

17 Q. For Day & Zimmerman?

18 A. Yes, sir.

19 Q. Okay. Did you hear anything from Tony White
20 about their being a CR for events that occurred in
21 the tritium program?

22 A. No, sir.

23 Q. Did you hear anything from anybody else about
24 a CR that had been written for the tritium program?

25 A. No, sir.

1 Q. So at the time you became the site manager,
2 were you aware of ongoing litigation by Mr. Goforth
3 with TVA?

4 A. No, sir.

5 Q. At any time subsequent to your being the --
6 getting the site manager position, did you learn
7 about -- up to the time Mr. Goforth was fired --
8 litigation that he was having against TVA?

9 A. No, sir.

10 Q. So did you ever talk to a lawyer for TVA by
11 the name of Johnny Slater, and I don't want to know
12 what Johnny Slater might have said, but did you ever
13 talk to a lawyer from TVA named Johnny Slater?

14 A. No, sir.

15 Q. Did anyone make you aware that Mr. Goforth
16 had a pending mediation to resolve his litigation
17 with TVA?

18 A. No, sir.

19 Q. Did there come a time, within the time
20 reference we're talking about as you became site
21 manager for DZ at Watts Bar, when you were working
22 or, at least, inquiring with Mr. Goforth, and having
23 some back and forth with him about the budget for the
24 upcoming cycle 15 tritium program?

25 A. The budget for it regarding?

1 A. Specifically, no. I mean, typically what
2 occurred, he would have notified me during that time
3 of what the need was.

4 Q. Okay. Well, during any of those discussions
5 with him about the personnel needs for the upcoming
6 cycle, do you recall telling him that you hoped that
7 cycle 15 goes better than the last cycle?

8 A. No, sir, I don't.

9 Q. Do you recall telling him that you wouldn't
10 want to have another bad report about the upcoming
11 cycle as had just happened with the last cycle?

12 A. No, sir, I do not.

13 Q. Do you recall telling him that you hoped
14 there wouldn't be another complaint about the way the
15 cycle went?

16 A. No, sir, I did not.

17 Q. You don't remember having any conversations
18 along the lines I've just posed to you in the last
19 couple of questions?

20 A. No, sir, I did not make those statements.

21 Q. Is it possible you made them and you just
22 don't remember because it wasn't that important at
23 the time?

24 A. No, sir.

25 MR. LANTIS: Objection to form, but you

1 may answer.

2 MR. MEALOR: Objection.

3 THE WITNESS: No, sir, I did not make
4 those statements. I wasn't aware of any of those
5 instances that he referenced in those statements
6 regarding the performance or anything in cycle 14.

7 BY MR. JOHNSON:

8 Q. Do you recall Mr. Goforth having a discussion
9 with you in which he told you that his boss,
10 Mr. McGuire, had directed him to write an evaluation
11 of the cycle 14 activities by the Day & Zimmermann
12 and TVA workers?

13 A. No, sir.

14 Q. Did he tell you that he had to write the
15 evaluation, and it was just intended to make the team
16 better?

17 A. No, sir.

18 Q. Do you recall whether several TVA and DZ
19 employees in 2018 filed complaints that they thought
20 they were being retaliated against, and specifically
21 naming Jesse James?

22 A. In 2000 when?

23 Q. '18.

24 A. I heard some rumblings of some rumors, but I
25 didn't know anything specific.

1 Q. Were there any names associated with the
2 rumblings that you heard?

3 A. No, sir, I did not know of any names.

4 Q. Just tell me about the rumblings. What
5 rumbles did you hear?

6 A. Well, just treatment and how he talked to
7 people sometimes. That was basically it. Just
8 professionalism-type issues.

9 Q. With Jesse James?

10 A. Yes.

11 Q. Do you know why Mr. Jesse James was replaced
12 by Mr. White?

13 A. No, sir, I do not.

14 Q. Did you hear rumblings that that happened
15 because of these difficulties he was having?

16 A. No, sir.

17 MR. LANTIS: Objection to form. You may
18 answer.

19 THE WITNESS: No, sir, I do not.

20 BY MR. JOHNSON:

21 Q. And whatever rumblings you heard, was there
22 any indication that Mr. Goforth's evaluation of cycle
23 14 had generated these complaints?

24 A. No, sir.

25 Q. On the CR that you still have in front of you

1 that's previously marked as Exhibit 10, who was the
2 department -- or was it directed at the MMG group at
3 TVA?

4 A. Yes, sir, that's what it states. Initiating
5 department, D code, mechanical maintenance; owner
6 group, D code, mechanical maintenance.

7 Q. Does it identify a leader of that group?

8 A. Specifically a name?

9 Q. Yes, sir.

10 A. No, sir, the owner's name is blank.

11 Q. Oh, that's the owner's name of the CR?

12 A. That's correct.

13 Q. Okay. What I was looking for is who is the
14 CR directed at, possibly for corrective action?

15 A. If you reference on Page 2, initial actions
16 taken, a TVA tritium production senior program
17 manager met with the maintenance -- WBN maintenance
18 director to discuss the problems encountered.

19 Q. Okay. Did you ever hear anything from the
20 maintenance director, once you came on board, that
21 referred to having to do corrective action with
22 regard to that CR?

23 A. No, sir.

24 Q. So would you have any knowledge of whether
25 any corrective action was taken?

1 A. No, sir.

2 Q. Okay. Well, let's not let Exhibit 10 get
3 away from us or the court reporter will get angry.
4 Although, she will be nice about it.

5 So just to summarize a little bit -- well, I
6 might just show you one other document.

7 MR. JOHNSON: Anyone remember offhand
8 what exhibit number the Goforth's evaluation is?

9 MR. LANTIS: It would be a low number
10 because you showed it in McGuire's dep.

11 MR. JOHNSON: Yeah.

12 MS. LINDGREN: I think it's Exhibit 5.

13 MR. JOHNSON: 5. Okay.

14 BY MR. JOHNSON:

15 Q. I'm going to show you what's previously been
16 identified as Exhibit 5, and ask you if that's a
17 document you recognize?

18 A. First time I've seen this.

19 Q. Okay. You don't need to look at it further
20 if you're confident in your answer.

21 A. Okay.

22 Q. And I may be repeating myself, forgive me if
23 I am, but did you ever hear anyone speak of a
24 document authored by Mr. Goforth called "Cycle 14
25 Tritium Project"?

1 A. No, sir.

2 Q. Okay. Let's get up to the point where the
3 manway cover was found off.

4 MR. LANTIS: Before we start, Jim, can I
5 just get another bottle of water real quick?

6 MR. JOHNSON: Sure.

7 (Short pause.)

8 BY MR. JOHNSON:

9 Q. All right. So if I represent to you that the
10 manway cover was found off during the night of
11 October 18th to 19th, would that sound correct?

12 A. That sounds correct, yes, sir.

13 Q. Okay. And would it also sound correct that
14 Mr. Goforth was suspended as a result of that manway
15 being off on October 22nd?

16 A. Yes, sir.

17 Q. And October 22nd was a Monday; correct?

18 A. Yes, sir, that's correct.

19 Q. Okay. Do you recall informing Mr. Goforth
20 that he had been suspended on that morning of October
21 the 22nd?

22 A. Yes, sir, I do.

23 Q. And where did you find Mr. Goforth to give
24 him this information?

25 A. Mr. Goforth was out in the commons area right

1 outside our OCC in the main office building on-site.

2 Q. Okay. Tell us what the "OCC" is.

3 A. It's our Outage Control Center. It's where
4 all applicable departments onsite reside to manage
5 our outages.

6 Q. Is that called the war room?

7 A. It's called the OCC, Outage Control Center.

8 Q. Okay. So you found him in the OCC?

9 A. No, sir, he was outside of the OCC.

10 Q. I see. So outside -- the OCC is one room?

11 A. Yes, sir, one room.

12 Q. And so he was in a hallway?

13 A. No, he was outside in the commons area. It's
14 an area where some picnic tables are and all that.

15 Q. Oh, an outdoor area?

16 A. Yes. I came outside and I saw him through
17 the glass door, and I went outside to talk to him.

18 Q. Okay. Do you remember who you were with
19 within the minutes or up to a half an hour or so
20 before you saw Mr. Goforth and went and informed him
21 of this?

22 A. Yes, sir, I do.

23 Q. Who were you with?

24 A. I was with our site VP at the time, Mr. Paul
25 Simmons, Mr. Tony White, who was our maintenance

1 director, and a host of other people. The outage
2 folks that were inside the OCC, was in there talking
3 to them about some outage issues, and I saw
4 Mr. Goforth and went outside to notify him of his
5 suspension.

6 Q. Okay. Well, when you were with Mr. Simmons
7 and Mr. White, did the -- any two of you or the three
8 of you have a direct discussion together?

9 A. No, sir, I talked to them independently,
10 actually. Notified both of them that I was going to
11 be suspending Mr. Goforth pending further
12 investigation.

13 Q. All right. So let's take them one at a time.
14 Okay?

15 A. Mm-hmm.

16 Q. Let's take Mr. Simmons first. So you're in
17 the OCC?

18 A. Yes, sir.

19 Q. And you go up to Mr. Simmons and you say
20 what?

21 A. No, actually, I did not go up to Mr. Simmons
22 at first. I came in to talk about some other issues
23 regarding outage, so Mr. Simmons sitting in the back
24 corner, and then went up to him to notify him of our
25 decision to suspend Mr. Goforth pending further

1 Q. All right. And he did write you a statement
2 that you received, I think, that -- was it that
3 Monday?

4 A. Yes, sir.

5 Q. Was that before the suspension or after the
6 suspension?

7 A. Around about the same -- I got the statement
8 that morning, I think, and then the afternoon is when
9 the suspension took place.

10 Q. Who made the decision to suspend?

11 A. I made the decision to suspend.

12 Q. Did you confer with anyone before you made
13 the decision to suspend?

14 A. I spoke with Mr. Reeves and Mr. Howard about
15 it.

16 Q. All right. At what point was the
17 determination made that someone was going to further
18 investigate this?

19 A. That afternoon, once we started digging back
20 through the work order and looking at how things were
21 signed, Mr. Reeves came down and we went through it
22 together as well. So he wanted to interview
23 Mr. Goforth, and that's what occurred.

24 Q. Okay. So this is all occurring on Monday,
25 the 22nd, that Mr. Reeves came down?

1 A. On Sunday. I think he came down that Sunday,
2 if I'm not mistaken.

3 Q. That Sunday being the day before Mr. Goforth
4 was suspended --

5 A. Yes, sir.

6 Q. -- or the following Sunday?

7 A. No, the Sunday before. That weekend before.

8 Q. Okay. So actually, before Mr. Goforth was
9 suspended, a decision was made for Mr. Reeves to
10 investigate what happened?

11 A. No, sir, that's not what I stated.

12 Q. Okay. Just clear it up for me, then, because
13 I thought that's what I heard.

14 A. No, sir.

15 Q. Go ahead.

16 A. I said -- the question was when
17 Mr. Goforth -- the decision was to suspend
18 Mr. Goforth. I said first I made that decision.
19 Second, when Mr. Reeves got involved, he got involved
20 that Sunday when he came down. The decision was
21 already made to suspend him. He came --

22 Q. I see.

23 A. Yes. I was -- I was -- I wanted to make sure
24 I conferred with him to make sure we had everything
25 that we needed to do from a suspension standpoint,

1 and that's when I made a notification that following
2 Monday.

3 Q. Okay. So my question was, then, when was it
4 decided that Mr. Reeves would investigate the
5 incident?

6 A. That Monday as well. He wanted to get
7 further information as to what, you know, occurred;
8 you know, what was -- you know, behaviors, things of
9 that nature.

10 Q. And that was on Monday, the 22nd, the same
11 day as the suspension?

12 A. Yes, sir.

13 Q. All right. So at that point did you
14 participate or have any further discussions with
15 Mr. Reeves in the course of his investigation?

16 A. Yes, I did.

17 Q. Can you tell me what those were?

18 A. I basically supplied any information or
19 documentation that he needed. It wasn't just him
20 doing the investigation. I was helping him. I was
21 supplying documents or previous documents, work order
22 documentation, things of that nature as well.

23 Q. Okay. And I'm talking about up to the time
24 that he made the termination decision, let's confine
25 it to. The Monday you decide -- y'all decide that he

1 was going to be the investigator, and then there came
2 a time when he decided to recommend termination. So
3 I'm talking about that time period.

4 A. Okay.

5 Q. And that's when you were providing such input
6 as he requested in terms of help of what he needed?

7 A. That's correct.

8 Q. Okay. So when did he make that decision that
9 he was going to recommend termination?

10 A. It was later on that week. I don't know the
11 specific date, but it was after the interview that he
12 conducted with Mr. Goforth.

13 Q. Okay. So if I tell you he interviewed
14 Mr. Goforth on October the 25th, which would have
15 been a Thursday, so it was very shortly after that?

16 A. Mm-hmm, shortly.

17 Q. Okay. So that being on a Thursday, do you
18 recall whether he made the decision to terminate,
19 say, on Friday or --

20 A. Roughly. Like I said, it was in that time
21 frame.

22 Q. Okay. So it was pretty -- pretty quick --

23 A. Yes, sir.

24 Q. -- after the interview?

25 Okay. Did he ever ask you to produce any of

1 doing this on the 5th you just, you know, put a date
2 in there since it was just a draft; right?

3 A. Yes, sir.

4 Q. But the intention for this draft was that
5 eventually this would be part of the ERB documents?

6 A. That's correct.

7 Q. Okay. And so on the second page there, let's
8 read the first question after "If you answer yes to
9 any of the questions below, please provide an
10 explanation."

11 A. Mm-hmm.

12 Q. What was the first question?

13 A. "Was the action confirmed to be willful
14 misconduct, intentional/deliberate."

15 Q. And you indicated "no" for that answer in
16 this draft?

17 A. Yes, sir, I did.

18 Q. Okay. All right. Thank you.

19 MR. JOHNSON: Let's mark that one as the
20 next exhibit, which is number 40.

21 (Document was marked for identification
22 as Exhibit Number 40.)

23 BY MR. JOHNSON:

24 Q. As of this time, had Mr. Reeves informed you
25 of what the grounds for the termination would be?

1 A. Yes, sir.

2 Q. And was the grounds that he informed you of
3 falsifying a document?

4 A. Yes, sir.

5 Q. Okay. All right. Let's look at this one,
6 which I'll inform counsel is Page Number 753 to 768.
7 And let me know if that is your e-mail to Rebecca
8 Rogers, copied to others, and that's the attachment
9 to your e-mail.

10 And I can tell you that these are documents
11 provided to us by Day & Zimmermann, and they're
12 consecutively page numbered. There's not anything
13 missing in the pages.

14 MR. LANTIS: Yeah, DeWarren, just so you
15 know, when he's saying consecutive page numbers,
16 these are a little stamp that we put on the documents
17 as an identifier, so that's how you know what he's
18 saying is accurate. If you see any gaps in there,
19 though, let us know.

20 MR. JOHNSON: May I see your copy,
21 please, sir? Here, this is the same thing. This is
22 just another copy. This was supposed to be mine.
23 I've got to remember whose pile is whose. It's
24 identical.

25 THE WITNESS: Yes, sir.

1 the ERB decision is he's terminated?

2 MR. LANTIS: Objection to form. You may
3 answer.

4 THE WITNESS: Yes. Yes.

5 BY MR. JOHNSON:

6 Q. Is it your understanding that DZ could not
7 fire Mr. Goforth without getting the approval of TVA?

8 MR. LANTIS: Objection to form.

9 THE WITNESS: No, sir.

10 BY MR. JOHNSON:

11 Q. Okay. What was your understanding?

12 A. My understanding of the ERB process is to
13 ensure -- the ERB board is to ensure that there is
14 no -- the termination is not directly linked to any
15 ongoing concerns or investigations or litigation.

16 Q. And who did you get that view from?

17 A. That's what the ERB procedure says. If you
18 read the ERB procedure, that's what it states, and
19 the procedure is noted at the bottom of all those
20 documents as well.

21 MR. JOHNSON: All right. Let's mark this
22 one as 56, which is your Document 3.

23 (Document was marked for identification
24 as Exhibit Number 56.)

25 //

1 REPORTER'S CERTIFICATE

2
3 STATE OF TENNESSEE

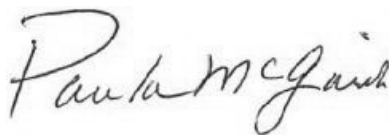
4 COUNTY OF HAMILTON

5 I, PAULA McGUIRK, RPR, LCR#789, CCR-GA, in
6 and for the State of Tennessee, do hereby certify
7 that the deposition of DeWARREN WASHINGTON was
8 reported by me, and that the foregoing 160 pages of
9 the transcript is a true and accurate record to the
10 best of my knowledge, skills and ability.

11 I further certify that I am not related to
12 nor an employee of counsel or any of the parties to
13 the action, nor am I in any way financially
14 interested in the outcome of this case.

15 I further certify that I am duly licensed
16 by the Tennessee Board of Court Reporting, as
17 evidenced by the LCR number and expiration date
18 following my name below.

19 In witness whereof, I have hereunto set
20 my hand this 20th day of September, 2021.

21 
22

23 PAULA McGUIRK, RPR, LCR, CCR-GA
24 LCR#789 - Expires: 6/30/2022
25

IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF TENNESSEE
 AT CHATTANOOGA

 ROBERT M. GOFORTH, :
 :
 Plaintiff, :
 :
 vs. : NO: 1:20-CV-254
 :
 TENNESSEE VALLEY AUTHORITY :
 and DAY & ZIMMERMANN NPS, INC., :
 :
 Defendants. :

Chattanooga, Tennessee
 August 18, 2021

DEPOSITION OF JOHN REEVES

APPEARANCES:

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1 Q I see. So you would go to plants where there
2 were Westinghouse facilities and do work there?

3 A Yes.

4 Q Okay. All right. What was your position at TVA
5 at the time that you did the investigation of
6 Mr. Goforth?

7 A I was the senior director for operations.

8 Q And tell us what that -- the job duties of that
9 position.

10 A My responsibility were all the
11 Day & Zimmermann operations related to the TVA nuclear
12 account.

13 Q So that was all of the TVA plants?

14 A Yes. All the new -- oh, I'm sorry.

15 Q Yeah. All the new plants.

16 A Yes.

17 Q And so that would be Sequoyah, Watts Bar, and
18 Browns Ferry?

19 A That is correct.

20 Q Okay. How did you find out that this manway
21 cover was not on, on -- that ended up in the
22 investigation of Mr. Goforth?

23 A My team contacted me.

24 Q Specifically who on your team?

25 A Originated from the site manager.

1 Q Who was?

2 A DeWarren Washington.

3 Q And so did you have a direct conversation with
4 DeWarren?

5 A Yes.

6 Q Can you tell me about that conversation? What
7 did DeWarren tell you, and what did you tell him?

8 A The plant was struggling to pull a vacuum. They
9 found the source of the issue to be a manway cover and
10 crossunder piping that was left off that should have
11 been installed.

12 Q So that's what he told you? And then what was
13 your response?

14 A Appreciated the heads up, and I would start my
15 process.

16 Q Why would DeWarren be calling you in particular?
17 Did you have a role that said: Hey, if something like
18 this happens, I should be called? I'm the one to call?

19 A That was my policy, is I wanted to hear any time
20 we had significant issues.

21 Q So you think Warren -- DeWarren contacted you
22 directly before he went to other management, or would
23 you have no knowledge of that?

24 A I don't have direct knowledge of that.

25 Q Okay. Well, what indirect knowledge do you have

1 of how he -- how he wound up with you? I'm just trying
2 to determine how he wound up with you. What was the
3 events?

4 A I appreciate the question. There's a level of
5 management between me and the site managers. And my
6 policy is use of the chain of command -- but I wanted
7 to hear about significant issues.

8 Q Okay. So who would have been the in-between
9 person?

10 A My operations manager.

11 Q Who was?

12 A Jason Howard.

13 Q I see. So your understanding is, DeWarren went
14 to Jason.

15 Was he on site at Watts Bar?

16 MR. LANTIS: Jason or DeWarren?

17 BY MR. JOHNSON:

18 Q Jason.

19 A I don't recall if Jason was at site when
20 DeWarren called me.

21 Q Well, quite apart from whether he was on site at
22 that time, was his job on site? Was that his job to be
23 on site at Watts Bar?

24 A It was our practice that the ops manager and
25 myself would make frequent visits during outages. So

1 that would have been his, his duty assignment as part
2 of many duties.

3 Q Okay. All right. So I think we've established
4 how DeWarren got to you and what DeWarren said when he
5 called.

6 So as a result of DeWarren calling, what did you
7 do?

8 A I notified my, my supervisor, my boss.

9 Q Who is?

10 A Bill Hickman.

11 Q Okay. And what was the conversation with
12 Mr. Hickman like?

13 A I don't recall specifically, but my practice is
14 to contact him -- and again, a significant issue --
15 alert him to the issue. So my normal practice is
16 create a text or make a phone call and say as a heads
17 up, here's the issue, here's where we are, here's my
18 plan.

19 Q All right. And your plan was what, at that
20 time?

21 A To get to site and uncover what, what had
22 happened.

23 Q Did DeWarren tell you anything other than the
24 manway was discovered off about facts surrounding -- or
25 perceived facts by him surrounding the manway being

1 A And it is an expectation.

2 Q All right. So before you arrived at the site,
3 your memory is that you talked to Mr. Washington and
4 Mr. Hickman. And, you know, you may, based on
5 practice, have talked to who you mentioned.

6 A Yeah. And -- yes. That's correct.

7 Q Okay. Thank you. So there came a time when you
8 conducted a telephone interview with Mr. Goforth. Is
9 that correct?

10 A Yes.

11 Q And if I give you a sequence of times, tell me
12 whether this sounds right to you. That the manway
13 cover was found off the night of October 19th -- 18th
14 to 19th -- which is a Thursday and Friday; that
15 Mr. Goforth was suspended on that Monday, the 22nd of
16 October, and the interview by you, the telephonic
17 interview with Mr. Goforth was Thursday, the 25th of
18 October. Does that sound correct?

19 A I know the interview was on the 25th. I know
20 the 18th and 19th is when the manway cover was
21 discovered on the scaffold by the client. The
22 suspension is at a level that I'm not --

23 Q I understand.

24 A -- involved in, but that's, that's the best of
25 my recollection of, of the timeline -- those, those two

1 should have, you shouldn't have. I just want to know
2 whether you checked with them.

3 A And I'm -- my pause is to make sure I'm, I'm
4 remembering correctly and --

5 Q Sure.

6 A -- all the folks that I -- I've spoke with
7 outside of my organization.

8 I did talk to TVA maintenance. I don't recall
9 talking to any of the engineers. Is that, is that
10 helpful?

11 The person responsible for the inspection is the
12 engineer. I don't recall talking to the engineer.

13 Q Okay. And so the only person that you talked to
14 that you've identified so far is who? Because you've
15 just identified somebody, but not by name.

16 MR. LANTIS: Objection to form. You may
17 answer.

18 THE WITNESS: It was one of the people
19 in maintenance, which would have reported up through
20 the maintenance director -- which at the time was
21 either Mr. White or Mr. James. And I apologize, I, I
22 don't recall the name of the individual.

23 BY MR. JOHNSON:

24 Q Okay. And what was that -- do you recall what
25 the conversation was?

1 A Yes. What, what, what was the objective of what
2 we were doing with Day & Zimmermann, just confirming
3 our, our objectives.

4 Q Okay. So you didn't get into the issue of how
5 the manway cover got off or on. You were just trying
6 to understand the objectives of the, the work?

7 A Making sure I understood the work -- that is
8 correct -- and it was prep -- prepping for my interview
9 for Mr. Goforth.

10 Q All right.

11 (Playing audio.)

12 BY MR. JOHNSON:

13 Q So does that kind of represent what you
14 learned --

15 A Correct.

16 Q -- when you talked to --

17 A Part of my learning. I just -- I, I didn't want
18 to misrepresent that I spoke to a FAC engineer. I
19 don't recall speaking to a FAC engineer that was
20 responsible for that piping.

21 Q Uh-huh.

22 A But I did do -- I did have discussions with
23 multiple TVA individuals in the OCC once we discovered
24 the event.

25 Q Okay. And Mr. Goforth's input into this up to

1 this point -- I'm just asking you again. So far it has
2 been accurate and, and truthful.

3 A Yes. What I was looking for was to make sure he
4 had good knowledge of the work that was being done and
5 had experience, and I -- that's, that's correct. That
6 was the line of my questioning.

7 I think it's important to say I -- I don't want
8 to be misconstrued in, in your question. I, I had a
9 lot of concerns with what was in the work order and
10 things that, that he said, so I'm not saying that --
11 your, your questioning was, was I satisfied that he was
12 being truthful. I was not satisfied that he was being
13 truthful.

14 Q Up to this point with the words that came out of
15 his mouth, was he being truthful?

16 A Yes, sir.

17 (Playing audio.)

18 MR. LANTIS: Just listen to it, John.

19 THE WITNESS: Okay.

20 BY MR. JOHNSON:

21 Q Okay. Let's take a look at that signature log.
22 Have you identified the signature log, page --

23 A 32.

24 Q It says 32 at the top, but that's Mr. Goforth's
25 writing -- but that will help counsel to identify it.

1 A Correct.

2 Q I think it's Section -- Category One Violation,
3 Subsection K. Can you identify that --

4 A Does it have Craft Employee Orientation
5 Information & Work Safety Rules? What we call our work
6 safety rules.

7 Q Right.

8 MR. LANTIS: Document 46, for the
9 record.

10 THE WITNESS: And the falsification of
11 records, such as Social Security number, name, quality
12 control documents or other is the reason for
13 termination.

14 BY MR. JOHNSON:

15 Q Okay. And we'll call this Exhibit 33?

16 THE COURT REPORTER: 33.

17 (Exhibit 33 was marked for identification).

18 BY MR. JOHNSON:

19 Q And so that was the reason for the termination,
20 the violation of this subsection?

21 A Best of my knowledge, that's correct.

22 Q Falsification of records.

23 A That's correct. There is an HR document that
24 states that. But to the best of my knowledge, best of
25 my recollection, that is dead on.

1 Q Okay. So, I mean, obviously the falsification
2 wasn't about Social Security number --

3 A Or others.

4 Q -- name, quality control documents or others.

5 A It was part of that, that statement, or others.

6 Q Or others?

7 A Correct.

8 Q Got it.

9 Because this wasn't a quality control document
10 as evidenced by it was NQR or --

11 A That's a very long answered question with
12 quality control.

13 Q Okay. Well, let's leave it -- I'm sorry. I
14 don't mean to interrupt you --

15 A The system was not in nuclear safety, so that --
16 we established that earlier.

17 Q Yeah.

18 A There's a BOP or Balance of Plan operation. And
19 that crossunder piping is not nuclear safety related.

20 Q Okay.

21 A Does that help?

22 Q It helps. But I think the main thing is, you're
23 just saying you're really relying on the or other part.

24 A Yes. That, that -- that paragraph as written is
25 what the -- what we determined to be his violation.

1 When I say we, I -- I'm, I'm responsible for
2 that, Jim. I made that decision.

3 MR. JOHNSON: All right. Let's continue
4 the tape.

5 MR. LANTIS: 3924.

6 (Playing audio.)

7 MR. JOHNSON: Let's stop it there.

8 MR. LANTIS: 4110.

9 BY MR. JOHNSON:

10 Q Okay. That's twice that we've heard that
11 Mr. Goforth said he was engaged in protected activity,
12 correct?

13 A Correct.

14 Q And the first time he said he was engaged in
15 protected activity included litigation, did he not?

16 A I believe that's what he said, from my
17 recollection.

18 Q Okay. Can you tell me what follow-up if any you
19 did to determine whether he had been engaged in
20 protected activity?

21 A That email, because it just says it exactly what
22 I did. I spoke to our employee concerns program
23 manager.

24 Q Okay. And that was the full extent of, of all
25 that you did to --

1 A Nobody from TVA had anything to do with my
2 decision to terminate Robert Goforth. No, sir. That
3 was my decision.

4 Q Did you -- did you make your decision before
5 TVAs ERB?

6 A Yes.

7 Q I believe I already know the answer to this
8 question from that answer, but I'm going to ask it
9 nonetheless. Was TVAs ERB process part of your
10 decision-making process?

11 A My decision was made. TVAs process was to
12 comply with the confirmatory order they had with the
13 NRC.

14 Q Did anyone at TVA influence your decision to
15 terminate Mr. Goforth in any way?

16 A Absolutely not.

17 Q Did anyone at TVA indicate what TVA wanted you
18 to do with respect to discipline for Mr. Goforth?

19 A Absolutely not. That would be co-employment.

20 Q Did Mr. Goforth's work on TVAs tritium project
21 play any part in your decision to terminate
22 Mr. Goforth?

23 A No.

24 Q Were you aware of any report Mr. Goforth made
25 about the tritium project when you made the decision to

1 terminate him?

2 A No.

3 Q Were you aware -- were you aware of any concerns
4 Mr. Goforth raised regarding TVAs tritium project when
5 you made that decision to terminate him?

6 A No.

7 MR. BERNIER: Thank you for your time.
8 I have no more questions. I really appreciate it,
9 Mr. Reeves.

10 THE WITNESS: Yes, sir.

11 MR. LANTIS: I don't have anything.

12 RE-EXAMINATION

13 BY MR. JOHNSON:

14 Q In followup to the questions that you just
15 responded, on the recording that we listened to -- and
16 we've been over this before, but that Mr. Goforth told
17 you he engaged in protected activity that involved
18 litigation, correct?

19 A Correct.

20 Q Okay. Did you inquire in that so far as to
21 learn that the litigation involved protected activity
22 for his evaluation that he had written and his -- the
23 Cusick CR that he had participated in? Did you, did
24 you follow in -- follow his statement enough to know
25 whether it involved the litigation involved with that?

1 A I followed our process to make sure that any
2 safety concerns that were raised were evaluated by the
3 TVA, and our process with Ken and Brad that we looked
4 at earlier.

5 So that, that note that you saw from -- with Ken
6 Blackwell is what I did to follow-up within our system.
7 Brad is his supervisor. And then with TVA, I depend on
8 the ERB that, as I stated earlier, that's a, that's
9 a -- I don't have participation in that process by
10 design.

11 Q So when he told you that he was involved in
12 litigation and that that was protected activity, that
13 turned out to be the sum total of what you knew about
14 that protected -- about that protected activity, that
15 particular protected activity that he was alleging.

16 A I'm not sure I understand your question.

17 Q When he told you that he was involved in
18 protected activity --

19 A Uh-huh.

20 Q -- which involved litigation, that turned out to
21 be all you ever knew before the termination about that
22 litigation.

23 A The first time I heard about tritium was when we
24 were -- you and I met at the NRC. I knew nothing about
25 the tritium.

1 I'm sorry. That -- that's the fact. So that's
2 the fact. Sorry that you're disappointed in that
3 answer.

4 Q So you didn't -- I -- I'm not trying --

5 A It just seemed frustrated, Jim.

6 MR. LANTIS: Yeah.

7 BY MR. JOHNSON:

8 Q Yeah. Because it's a simple yes or no question,
9 and you're answering --

10 A Okay. Keep it simple and concise.

11 Q If you would just say --

12 A Keep it simple and concise, and I'll be happy to
13 answer the question.

14 Q I'll try it one more time, and see if you can
15 answer yes or no to it, because I'm --

16 Okay. All I'm asking you is, was -- at the time
17 you made the termination decision, the sum total of
18 what you knew about him being in litigation was that he
19 told you he was engaged in protected activity involving
20 litigation.

21 MR. BERNIER: Objection to form.

22 MR. JOHNSON: Yes or no.

23 MR. LANTIS: You can answer.

24 THE WITNESS: Okay. So -- so --

25 BY MR. JOHNSON:

1 Q Can you answer it yes or no?

2 A I'm going to answer truthfully. So that was the
3 first time I had heard about him raising a legal
4 concern when he made that statement.

5 Q Okay.

6 A Does that answer your question?

7 Q Well, and was that all you knew was that
8 statement up to the time you made a termination
9 decision?

10 A I knew nothing about tritium when he made that
11 statement. I knew nothing about tritium when I
12 terminated him.

13 Q Did you know anything about litigation when you
14 terminated him other than that he was in litigation?
15 That's the question.

16 A There was a statement made to me about work that
17 he did falsifying documents for Watts Bar too -- that
18 there was some concerns. That's, that's what someone
19 said -- and there was no validation to that. So
20 that's -- I don't believe there was any litigation
21 involved there.

22 MR. JOHNSON: That's all the questions I
23 have.

24 MR. LANTIS: Okay. Mike, anything in
25 follow-up?

REPORTER'S CERTIFICATE

STATE OF TENNESSEE)

COUNTY OF HAMILTON)

I, Beth Ann Pell, Licensed Court Reporter #267, do hereby certify that I reported in machine shorthand the deposition of JOHN REEVES, called as a witness in the above-styled cause; that the said witness was duly sworn by me; that the foregoing pages, numbered from 1 to 167 inclusive, were typed under my personal supervision and constitutes a true record of said deposition.

I further certify that I am not an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the outcome of the action.

Witness my hand in the City of Chattanooga, County of Hamilton, State of Tennessee, this 20th day of September 2021



Beth Ann Pell, LCR# 267
Licensed Court Reporter
Expiration Date: 06/30/2022

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

ROBERT M. GOFORTH,
Plaintiff,

vs.

Case No: 1:20-cv-254

TENNESSEE VALLEY AUTHORITY
and DAY & ZIMMERMANN NPS,
INC.

Defendants.

Chattanooga, Tennessee
September 16, 2021

DEPOSITION OF GREGORY R. WHITEHORN

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1 questions. That is, she can't pick up facial
2 expressions or "uh-huh" or "unh-huh" or shakes of the
3 head or nods of the head. She can only pick up what
4 you're actually saying. So please try to answer all
5 my questions out loud. Understood?

6 A. Yes, sir. Yes, sir.

7 Q. All right. Terrific. Well, we'll get
8 started then. Tell us, please, about your military
9 experience, if any.

10 A. I do not have any military experience, sir.

11 Q. All right. How about your work experience
12 then? And let's confine it to things that are
13 relevant to what you were doing in 2017 and '18. So
14 tell me about how much experience you have in the
15 nuclear power industry.

16 A. The nuclear power, I've been in nuclear power
17 since 2000. So it's going on 22 years of experience
18 in nuclear. I have -- roughly ten of those years
19 were spent in the union trades as a boilermaker in
20 various levels of positions, from a worker all the
21 way up to a general foreman superintendent.

22 In 2010 I hired on with TVA as a
23 modifications task manager, and I have held that
24 position from then until now, present. The titles
25 have changed. My title is now a maintenance services

1 supervisor, but the job description and job that I do
2 has not changed.

3 Q. And tell me again, please, the year that you
4 began at TVA.

5 A. As a contractor, 2000.

6 Q. And that's the managed task job that you just
7 described was in 2000?

8 A. Yes, sir, that's correct.

9 Q. And in your work at TVA -- well, first of
10 all, let me ask you this: How much of that work at
11 TVA has been at Watts Bar?

12 A. Prior to 2010 -- I guess I'm going to try to
13 do this as a percentage because I've worked in
14 various other nuclear power plants, coal fires, oil
15 refinery, but at Watts Bar I would say my experience
16 through those years would be somewhere in the 18 to
17 20 percent.

18 Q. And what are you doing at the present time?

19 A. At the present time, so again, 2010 till
20 present, all of my work has been at Watts Bar. And
21 my title from the start was modifications task
22 manager; my title now is a maintenance services
23 supervisor, and I've overseen various projects
24 throughout those years.

25 Q. So which of those two jobs at Watts Bar you

1 I apologize. I don't have these notes written down
2 to tell you exact dates and times. It's somewhere in
3 that '17-'18 time frame that this happened.

4 There was a transition from maintenance
5 services task-managed, to the maintenance department
6 MMG. TVA and any contractors then would be
7 augmented, working directly for TVA.

8 Q. Okay. And as you say, were you replaced then
9 by a DZ worker who was augmented to TVA?

10 A. Yes, sir, that's correct.

11 Q. Who would that have been?

12 A. That would be Mr. Robert Goforth. He was
13 requested by Jeff McGuire, who is the tritium program
14 manager. He owns the project for TVA and at Watts
15 Bar. There are some other peers in corporate who
16 work with him. There's Carla Borrelli and his
17 bosses, which I'm not sure who those are at this
18 time, or were at that time.

19 But Mr. McGuire requested Mr. Goforth to take
20 the role that I once held because he needed that
21 position. He needed someone to fill that role, and
22 my chain of command was no longer going to allow me
23 to be involved in that. So he hired Mr. Goforth, and
24 through requests to me and discussions with my boss
25 and other management, it was agreed that I would help

1 train Mr. Goforth in the duties that I performed, and
2 how I oversaw the work, and how I reported to
3 Mr. McGuire and so on and so forth.

4 Q. So in your experience with Mr. Goforth in
5 making that transition, how did he perform?

6 A. He did very well. I had no concerns or
7 issues with his performance.

8 Q. Did you previously know Mr. Goforth before --

9 A. I did.

10 Q. -- he took that position?

11 A. I'm sorry. Yes, sir, I did.

12 Q. And how long had you known him?

13 A. I've known Mr. Goforth personally from
14 working as a boilermaker in my previous TVA career,
15 2002-'3 time frame. I can't remember the exact year.
16 I was still an apprentice at the time.

17 Q. So you worked for a time with Mr. Goforth as
18 a boilermaker at Watts Bar or other TVA facilities
19 during the period you're telling us about that you
20 were a boilermaker?

21 A. Yes, sir. It was not only at Watts Bar and
22 other TVA facilities, but we actually first met, if
23 memory serves me, at a Georgia power plant.

24 Q. And then did there come a time when you
25 worked further with him once you made it into the

1 task management ranks there at Watts Bar?

2 A. Yes, sir. He was filling the role when I
3 was -- my last campaign that I oversaw as a task
4 manager, he was filling the role of a field engineer,
5 and I was training him in that role because the
6 previous people that we had had doing that type work
7 had either retired or moved on to other positions.
8 So I was teaching him the role of a field engineer
9 and what that consisted of, and he did very well.

10 Q. So during all this time that you've known him
11 over all the years when you were boilermakers and
12 then when you made it into the task management rank,
13 did you have an opportunity on a regular basis to
14 learn his reputation for work ethic?

15 A. Yes, sir, I did. Not only in the capacity of
16 the task manager over tritium, but Mr. Goforth also
17 worked under me as a BOP task -- or excuse me -- a
18 BOP supervisor and as a BOP oversight. I also know
19 of his work that was on Unit 2 from talking with
20 other peers of mine, and everybody spoke very, very
21 highly of his work, and he was very knowledgeable of
22 his work.

23 Q. And when I say "reputation," I mean,
24 reputation within the Watts Bar work community there.
25 And I understand that --

1 A. Yes, sir, everything that I just stated.

2 Q. How about his reputation for professional
3 competence both as a boilermaker and then later as a
4 task manager, are you familiar with that --

5 MR. LANTIS: Form.

6 MR. BERNIER: I'm going to object to the
7 form.

8 BY MR. JOHNSON:

9 Q. -- are you familiar with that in the Watts
10 Bar community, his reputation for that?

11 A. Yes, sir. His reputation for everything that
12 you stated was well. Mr. Goforth had no bad
13 reputation, whether it be for work ethic, whether it
14 be through his morals or anything. He had a good
15 reputation. He did a good job.

16 BY MR. JOHNSON:

17 Q. All right. Well, let me ask this,
18 professional reputation within the Watts Bar
19 community; a question about a couple of other
20 qualities. Without repeating the entire question,
21 I'll just give you the quality.

22 How about his reputation for reliability,
23 would you know that in the Watts Bar community?

24 MR. BERNIER: Object to the form.

25 MR. LANTIS: Objection to form.

1 MR. JOHNSON: From time to time --

2 MR. BERNIER: You can answer.

3 BY MR. JOHNSON:

4 Q. Let me explain a little bit, Mr. Whitehorn.
5 There may be objections from time to time, like you
6 just heard from the attorneys, and that's attorney
7 business and attorney jobs that have nothing to do
8 with your responsibility to answer questions. It's
9 just done for the record. And so when you hear an
10 objection, unless an attorney instructs you not to
11 answer the question, you can just ignore the
12 objection and proceed with your answer.

13 Is that helpful to you to understand that
14 going forward?

15 A. Yes, sir.

16 Q. Okay. So my question prior to the objection,
17 just to refresh your memory, was I'm going to give
18 you a couple of other qualities, and without
19 repeating the entire questions that I've asked you
20 about his reputation for work ethic and professional
21 competence, what I'm asking you is to each of these
22 qualities if you know Mr. Goforth's reputation in the
23 Watts Bar community.

24 Do we understand each other?

25 A. Yes, sir.

1 Q. How about reliability then?

2 A. He was very reliable. When given a task he
3 went out, got it done, and a lot of times he even
4 went above and beyond things that were asked of him
5 to get work done because he -- he was outstanding.
6 That's my opinion on that. That is my opinion as a
7 manager who he worked for. He did an outstanding
8 job, and I would have loved to have a crew of 50 of
9 him.

10 Q. How about his trustworthiness?

11 MR. LANTIS: Objection to form.

12 BY MR. JOHNSON:

13 Q. Same question as to trustworthiness.

14 A. His trustworthiness was without question, and
15 I never heard anyone question it in my presence.

16 Q. How about honesty?

17 MR. LANTIS: Objection to form.

18 MR. BERNIER: Objection to form.

19 THE WITNESS: My opinion of his honesty
20 was he was an honest individual, and I never heard
21 anyone say anything otherwise.

22 BY MR. JOHNSON:

23 Q. Okay. And I understand you said my opinion
24 was, but specifically, to refresh your memory, the
25 question was about whether you knew his reputation

1 for honesty in the Watts Bar community.

2 MR. LANTIS: Objection to form, to the
3 extent that's a question.

4 MR. JOHNSON: That's a question.

5 THE WITNESS: I guess I'm trying -- and
6 this is the time, I guess, where I get to speak kind
7 of, you know, freely because of this setting. I'm
8 not quite -- I think I answered it. You know, I
9 mean, I -- let me try answering it and see if this is
10 what you're wanting.

11 He was an honest person. Everyone that I
12 spoke with -- so I'm just, you know -- honest,
13 trustworthy, hard working, all of those great core
14 values that you look for in a worker, a supervisor,
15 he had, and his reputation amongst my peers that I
16 spoke with was the same. Did I answer it, sir? I
17 hope I did.

18 BY MR. JOHNSON:

19 Q. Yes, sir. Thank you.

20 MR. BERNIER: And Greg, if you don't
21 understand a question at any point, feel free to ask
22 him to explain or rephrase or just tell him you don't
23 understand. That's totally fine.

24 THE WITNESS: I understand, sir.

25 MR. JOHNSON: Yeah, and I would second

1 foreman, general foreman, superintendent, task
2 manager. I've overseen every aspect of it, including
3 the initial loading of Unit 2 ice condenser.

4 Q. All right. Let's start -- well -- and let me
5 ask you, since we were talking about your supervisory
6 role during the 2017 outage, let me ask you if when
7 the -- or do you recall that a manway cover was found
8 off on approximately October the 19th, 2017 during
9 the outage?

10 A. Yes, sir, I do.

11 Q. And what system was that manway cover on?

12 A. Memory serves me, I believe those are main
13 steam, which is system two, I think.

14 Q. Would that be the moisture separators that
15 you referred to earlier when you were describing
16 balance of plant work?

17 A. Yes, sir, it is in that system.

18 Q. And were you initially given a role in -- to
19 investigate that manway cover being found off?

20 A. Yes, sir. As the task manager over it, I
21 received a text message from my boss with a picture
22 of the manway cover off, and basically said that
23 operations found this manway cover off whenever they
24 were attempting to pull vacuum. We need to dig into
25 this. Greg, I want you to pair up with DZ and make

1 sure that they're doing a good investigation and
2 talking with the individuals who performed the actual
3 installation, or said they did the installation of
4 the manway. And I'm paraphrasing, by the way. This
5 is not verbatim, whatever that text message said, but
6 that is what I remember from it.

7 Now, with that -- that was on my off day, and
8 I actually got woke up by that text message. You
9 know, I leave it on just in case somebody needs me,
10 there's an emergency or for whatever reason, so I can
11 be reached. The text message woke me up and I looked
12 at it. And again, that was my off day so --

13 Q. So who --

14 A. -- I do --

15 Q. I'm sorry. You can finish your answer.

16 A. I was just going to say my peer that was
17 there, Jeff Wilson, was also on that text message
18 thread. It was a group text, and he would be working
19 on that in my stead.

20 Q. I see. Well, who was your text message from?

21 A. My boss, John Rhodes. And for clarification,
22 I know we're jumping back and forth, John Rhodes is
23 his given name. Dusty is a nickname that was given
24 to him in his youth. So if you hear me say John
25 Rhodes or you hear someone say Dusty Rhodes, they are

1 the same person.

2 Q. Understood. Thank you. So was it your
3 understanding -- or what was your understanding from
4 receiving that text message as to the role you would
5 play investigating the manway cover being off going
6 forward?

7 A. Well, based off of the text message that I
8 got, I made an assumption that when I came back
9 tomorrow I would be picking up on wherever that
10 investigation was at. I would, you know, obviously
11 come in, touch base with my peer, see what
12 information he had gleaned, and then go to DZ, see
13 where they were at. And, you know, basically, as it
14 was stated, kind of pair up with them.

15 Not necessarily lead the investigation
16 because it is a DZ work activity, but follow with
17 them and assure that they are crossing all the Ts and
18 dotting all the Is.

19 Q. So subsequent to you having that
20 understanding from getting that text message from
21 Mr. Rhodes, did any events occur to change your
22 understanding of what your role was?

23 A. When I got --

24 MR. BERNIER: Object to the form.

25 MR. JOHNSON: Yeah, that's the objection

1 I told you can -- that's for the record for the
2 attorneys. You can pretend they didn't happen and go
3 forward with your answer.

4 MR. BERNIER: Well, if I could clarify on
5 that. Greg, if you hear me or another lawyer start
6 talking, please let us get our objection out just so
7 it clears up the record. Don't pretend like it's not
8 happening.

9 THE WITNESS: Understand.

10 MR. BERNIER: Thank you.

11 BY MR. JOHNSON:

12 Q. So do you recall the question, or would you
13 like me to repeat it for you?

14 A. Yeah, I was going to ask you, sir, if you
15 don't mind to repeat it, please. I apologize.

16 MR. JOHNSON: Sure. And I will assure
17 counsel that his objection is preserved so he doesn't
18 have to object again when I restate it.

19 BY MR. JOHNSON:

20 Q. The question was, what events, if any,
21 occurred to alter your understanding that you've just
22 expressed of what you were to do as you understood
23 from the text from Mr. Rhodes?

24 A. So when I came to work the next day I got
25 with, again, my peer, Jeff Wilson, and discussed with

1 him, you know, okay, where are we at? You know,
2 what's our status? And he basically informed me that
3 the investigation was over. It was done. DZ had it,
4 and I didn't need to do anything further. And, you
5 know, I can't remember if he specifically said that
6 was due to a discussion with Dusty Rhodes who was on
7 back shift, by the way, for clarification, or that
8 was, you know -- I can only surmise that that's how
9 he got that information, through Dusty, in a
10 discussion with him because they always did a
11 turnover, whether it be start or end of his shift.
12 And they basically had told me it's good. You don't
13 need to do anything.

14 Q. And it was Mr. Miller who told you what you
15 just described to us?

16 A. Mr. Wilson, Jeff Wilson.

17 Q. Oh, Mr. Wilson. I'm sorry. Yeah, Jeff
18 Wilson. Yeah. Okay.

19 A. That is correct, sir.

20 Q. Okay. And so the reason you think that that
21 came from Mr. Wilson and not Mr. Rhodes, if I'm
22 understanding you correctly, is that Wilson was on
23 day and Rhodes was on night, and you were on day?

24 A. Yes, sir, that is correct. And Mr. Wilson
25 was assigned the duty/responsibility of filling the

1 maintenance services manager role on day shift, which
2 is the title my boss carries. So basically my boss
3 is on night shift, Mr. Wilson's his counterpart on
4 day shift, and that is why they were turning over to
5 each other.

6 Q. All right. Okay. Let's take a look at our
7 first document then. Would you please open your
8 Document Number 1?

9 A. Yes, sir.

10 MR. JOHNSON: And for counsel and the
11 court reporter, this document has previously been
12 marked as Exhibit 27, and so I will not be asking
13 that it be admitted again.

14 BY MR. JOHNSON:

15 Q. So take a look at the document for us,
16 please, sir.

17 A. I'm looking at the first page of the
18 document, sir, and I do see Exhibit 27 on it.

19 Q. Okay. And it says -- well, let me just ask
20 you this: Does this appear to be, on the face of it,
21 the work order that was for the moisture separator
22 where the manway cover was found off?

23 A. Yes, sir, it does appear to be that one.

24 Q. And on all of my subsequent questioning
25 regarding this Exhibit 27, I'm going to ask you to

1 please ignore the highlighting and the little
2 handwritten numbers, or any other -- and the little
3 handwritten numbers that are in circles on there --
4 because those were done subsequently, and were not
5 part of the document that I'm questioning you on.

6 Understood?

7 A. Yes, sir, understand.

8 Q. All right. So going through this document,
9 let me ask you -- well, before we go through it, you
10 talked about your experience with work orders. Is
11 this a routine work order that you are familiar with
12 from your work at -- as BOP supervisor?

13 A. As the BOP task manager, yes, sir, I am.
14 This is a very routine work order. No different than
15 any others.

16 Q. And as a boilermaker, did you perform the
17 work and sign off on the work on a work order that
18 was for this same work?

19 A. So to clarify, I don't know that I have
20 signed off for this particular manway. I have worked
21 on what we refer to as a "football" manway, and
22 that's just because of its shape. It's shaped like a
23 football. And if you hear me use that term, that is
24 synonymous with the cross-under manways.

25 So I have worked on them in the past. I have

1 physically performed the work on them. I have
2 documented work in work orders as a worker, as a
3 foreman, as a general foreman, superintendent, and I
4 have reviewed work orders and signed some in as a
5 task manager. So I have worked in every level in the
6 organization in the documentation of work orders.

7 Q. All right. Well, let me ask you then to turn
8 to the very last page of this document and when you
9 get there, let me know.

10 A. I am on the last -- I'm sorry -- oh, I'm
11 sorry. There's a lot more than that. Okay. The
12 very last page. The attachment alpha is the header,
13 and it looks like it starts with 3.13, I think.

14 Q. Yes. 3.13, which is titled "manway cover
15 reinstallation"; am I correct?

16 A. Yes, sir, you are correct.

17 Q. All right. Take a minute and familiarize
18 yourself with this Section 3.13 down to, and
19 including, where Mr. Goforth's signature appears.

20 A. Okay.

21 Q. All right. Let me ask you if you saw this
22 when you were asked to do the investigation, or if
23 you were to participate in the investigation?

24 A. Yes, sir, I did.

25 Q. All right. And is this a section of this

1 work order that you're familiar with, this
2 Section 3.13 from your past work?

3 A. Yes, sir, it is.

4 Q. And please then --

5 MR. BERNIER: Hey, Jim, what do you mean
6 by "past work" there? Do you mean work in the
7 investigation or other past work?

8 MR. JOHNSON: I mean, other past work.

9 THE WITNESS: Okay. I apologize
10 because -- thank you, Mike, for that clarification,
11 because I was actually answering that from the
12 investigation standpoint.

13 From my past work, I don't know that I
14 have ever worked this specific step -- or this page.
15 I don't know that I have actually documented or
16 anything, but, again, loads and loads of very, very
17 similar type things.

18 BY MR. JOHNSON:

19 Q. All right. And we're going to put this aside
20 just for a moment and look at Document Number 2, and
21 then we'll come back to it. Okay?

22 A. Yes, sir.

23 Q. Would you open Document 2?

24 A. All right. I have Doc 2 open. This is a
25 procedure, NPG work management planning procedure.

1 The title is NPG-SPP-07.6.

2 Q. All right. You seem to be in the right
3 document. And do you see that it's marked
4 Exhibit 30?

5 A. I do, sir.

6 MR. JOHNSON: And so, counsel, because
7 it's marked Exhibit 30, I will not be reintroducing
8 this document either.

9 BY MR. JOHNSON:

10 Q. So take a look through the pages that are
11 included -- well, let me ask you this before you look
12 further into the document. Is this document one of
13 the nuclear program standard programs and processes,
14 as it says there on the left side of the title page?

15 A. Yes, sir, it is. This is a nuclear
16 procedure.

17 Q. And is it a nuclear procedure that you are
18 familiar with?

19 A. Not verbatim, but, yes, sir, in content I
20 have read it and I do know the basic content. I
21 couldn't give you word for word or exact sections,
22 but I do know what it is and what is inside it.

23 Q. All right. Is this basically a guide of how
24 to prepare work orders for those who are preparing
25 work orders?

1 MR. LANTIS: Objection to form.

2 THE WITNESS: Yes, sir, it is.

3 BY MR. JOHNSON:

4 Q. And is it also a guide for those who are
5 supervising work orders to use to make sure that they
6 can perform their job?

7 MR. BERNIER: Objection to form.

8 THE WITNESS: Jim, I don't know that I
9 quite understand that question.

10 BY MR. JOHNSON:

11 Q. All right. Well, let me see if I can then
12 make this easier for you. Is this something that
13 people who are supervising workers doing their jobs
14 would look to to make sure that they are describing
15 to the workers what they're supposed to do in looking
16 at a work order?

17 MR. LANTIS: Objection to form.

18 MR. BERNIER: Objection to form.

19 THE WITNESS: I actually understood that
20 one, and I would say yes.

21 BY MR. JOHNSON:

22 Q. All right. So I want you to, please, then --
23 and this is an excerpt, these are excerpts from the
24 document -- go through and look at those. I'm not
25 saying read every word, since you say you're familiar

1 with it, but just to refresh your memory about the
2 things that it says. Just take a few minutes to look
3 through it and let me know when you're done.

4 A. Okay. You want me to look back through all
5 71 pages?

6 Q. Well, there aren't 71 pages. It's just an
7 excerpt. There's only three, four, five, six
8 or seven pages.

9 A. Oh, okay. I understand. I'm sorry. Yes, I
10 will look at them. I thought this was the whole
11 document. I apologize. What questions would you
12 like to ask, sir?

13 Q. All right. I just want to then return to
14 Document Number 1, and go back to that last page of
15 Document Number 1 where we left off before we went
16 and looked at these procedures.

17 A. Yes, sir, I am back to Doc 1 and I'm on the
18 last page that we were previously looking at.

19 Q. Okay. So you're looking at Section 3.13
20 again, down to where you see Mr. Goforth's signature?

21 A. That's correct.

22 Q. Now, Mr. Goforth's position in this case has
23 been that his signature represented that he was
24 acknowledging what a note said by signing it.

25 So my question is, based on your -- all of

1 your work experience, as you've described, and just
2 looking at Document Number 2, NPG work management
3 planning and procedure, is Mr. Goforth's
4 representation of what his signature is reasonable to
5 you?

6 MR. BERNIER: Objection to form.

7 MR. LANTIS: Objection to form, based on
8 the representation, and objection to form as to the
9 balance of the question.

10 MR. BERNIER: Jim, will you not testify
11 and ask him questions, please.

12 MR. JOHNSON: I am asking a question.

13 BY MR. JOHNSON:

14 Q. My question was, is Mr. Goforth's position
15 that he is acknowledging a note by his signature
16 there a reasonable one, in your opinion, based on
17 your experience and the planning and procedures that
18 you just read?

19 MR. LANTIS: And I think you're
20 misstating his representation based on his deposition
21 testimony, and that was one of the bases of my
22 objection.

23 MR. JOHNSON: Mike, you are allowed to
24 object -- or, I'm sorry, Paul -- to form of the
25 question, and the Judge has an order entered saying

1 you can object to form of the question. It
2 specifically forbids giving information to a witness
3 outside of objecting to form. So I'd ask you to
4 refrain from doing that in the future, which you just
5 did.

6 MR. LANTIS: Jim, I'm not giving any
7 information. I'm objecting to what you're saying.

8 MR. JOHNSON: I understand that that's
9 what you're saying. I'm just cautioning, again, that
10 all I expect to hear, based on the Judge's order, is
11 objection to form or an instruction not to answer on
12 the basis of privilege. Other than that, anything
13 else is out of bounds under the Court's order.

14 MR. LANTIS: I'll proceed as appropriate,
15 Jim. I disagree with what you're saying. That's
16 fine.

17 MR. JOHNSON: You don't need to explain
18 the basis of your objection, in other words. But I
19 understand your position. I think we understand each
20 other.

21 BY MR. JOHNSON:

22 Q. So do you remember the question,
23 Mr. Whitehorn?

24 MR. BERNIER: Jim, real quick. The rules
25 do not require us to only say objection to form.

1 They do provide for a short statement of the basis of
2 the objection. I'm not going to give any information
3 to the witness that would inform his answer, but I do
4 think it would be inappropriate for you to testify
5 for him or regarding what anyone else said, and then
6 just ask him if he agrees with that. Ask a question
7 rather than giving testimony, please.

8 MR. JOHNSON: I am allowed to ask leading
9 questions to a witness who is an employee of an
10 adverse party, and I will ask leading questions as I
11 deem appropriate. That's all I'm doing.

12 MR. LANTIS: That goes beyond a leading
13 question, though.

14 MR. JOHNSON: Well, we disagree about
15 that, and I understand your objections to form, and
16 so let's proceed.

17 BY MR. JOHNSON:

18 Q. Now, do you remember the question? Would you
19 like me to ask it once again?

20 A. Would you please repeat it, sir?

21 Q. Sure. The question is, based on your
22 experience with these work orders, as you described
23 it in your testimony, and based on your reading that
24 you just performed of Exhibit 30 excerpts, NPG work
25 management planning and procedure, do you find -- and

1 this is a question -- do you find Mr. Goth's
2 position -- or Mr. Goforth's position that he
3 signed -- his signature there represents that he's
4 acknowledging a note, to be a reasonable position?

5 MR. LANTIS: Same objection.

6 THE WITNESS: Yes, sir, I do. I do find
7 it reasonable based off of the procedure. This is
8 not a work step based off of several different
9 excerpts from the procedure. A work step can have no
10 more than one actionable statement in it. This has
11 multiple action statements embedded in it. This is
12 just so terribly written, that it's just terrible.

13 The fact that it has a note in big, bold
14 black, that is the exact definition of what a note is
15 supposed to be. It's supposed to start and it's
16 supposed to end, you know. A note must end with
17 something. Whether it be a box, whether it be the
18 changing to a new work step or another note, whatever
19 it may be, it must end. Again, the most important
20 thing here is there can only be one actionable
21 statement. You can't have a signature that is
22 validating multiple upon multiple items.

23 So with that, yes, I can see where
24 Mr. Goforth signed this as it being a note.

25 //

1 BY MR. JOHNSON:

2 Q. All right. So I'm going to go back to your
3 previous testimony regarding your initially being
4 assigned to investigate or participate in the
5 investigation of the manway being off. So I'm
6 referring you back to that prior testimony, and here
7 is my question:

8 Had you been permitted to continue in the
9 investigation, what is the likelihood, if any, that
10 you would have found that signature on 3.13 to be
11 falsely signing a document?

12 MR. LANTIS: Objection to form.

13 MR. BERNIER: Objection to form.

14 THE WITNESS: I would not have found it
15 falsely anything. I would -- if I had continued my
16 investigation and been asked what my findings were,
17 which was never done, I would have concluded that
18 this was not a work step. This was procedurally a
19 note.

20 I do understand where my management, TVA,
21 and DZ may have been coming from on this with what
22 they intended and/or wanted it to be, but that
23 doesn't change the fact of what it is by procedure.
24 By procedure, by the law, it is a note and it was
25 signed as such. I can see that. So there was no

1 falsification or intent to give false information to
2 someone for the purposes of hiding a truth. It was a
3 note, and signed as such.

4 BY MR. JOHNSON:

5 Q. Do you know who John Reeves is?

6 A. I do know him, sir.

7 Q. And what, at this time, was your
8 understanding of Mr. Reeves' position?

9 A. At that time I do not remember his exact
10 title, but as the hierarchy of DZ was, there were
11 three site managers. One at Watts Bar, one at
12 Sequoyah, one at Browns Ferry. Above those
13 individuals there was a man named Jason Howard, and
14 above him was Mr. Reeves. And again, I don't know
15 what their actual titles with DZ were.

16 Q. And do you know who was assigned to do the
17 investigation of Mr. Goforth when you were taken off
18 of it?

19 A. I did not know who the, quote, unquote,
20 assigned person was, but I did see Mr. Reeves there
21 on site and I did hear from other people, peers and
22 individuals, that Mr. Reeves was on-site performing
23 some form of investigation on the missing manway
24 cover.

25 Q. Did Mr. Reeves ever ask you about the missing

1 manway cover?

2 A. No, sir, he did not.

3 Q. And again, you were the supervising TVA
4 manager over the balance of plant work that this work
5 order was included in; correct?

6 A. That is correct, sir.

7 Q. I'm going to shift gears here on you,
8 Mr. Whitehorn. So give me a moment to make sure
9 we're done with these Documents 1 and 2 that we just
10 looked at. Okay?

11 A. Yes, sir.

12 Q. I hate to have you diving in and out of
13 documents, so that's why I want to make sure we're
14 done with these.

15 Do you know whether Mr. Reeves has ever
16 done -- ever directly supervised, as you did,
17 performance of any of these routine work orders?

18 MR. LANTIS: Objection to form.

19 BY MR. JOHNSON:

20 Q. At Watts Bar?

21 A. To my knowledge Mr. Reeves has never worked
22 at Watts Bar in a working role, or even an oversight
23 role, up to a superintendent. I guess I think that
24 would answer your question.

25 Q. Thank you. All right. We're going to move

1 on then, please, sir. So open Document Number 3, if
2 you will.

3 A. Yes, sir. Okay, sir, I'm looking at a
4 document titled "fact-finding notes, contractor
5 only."

6 Q. Okay. You're on the right document then.
7 And I take it that this is a document you've never
8 seen before?

9 A. Yes, sir, I've never seen this document.

10 Q. And is it marked Exhibit 54 at the bottom of
11 the first page?

12 A. Yes, sir, it is marked Exhibit 54.

13 MR. JOHNSON: So I will not be admitting
14 this as a separate exhibit since it's previously been
15 admitted as Exhibit 54, and that's for counsel's
16 purposes I'm saying that.

17 BY MR. JOHNSON:

18 Q. So this is a document you're not familiar
19 with, but let me walk you through it a bit. It says
20 that the contractor information is about Robert
21 Goforth there at the top; is that correct?

22 A. I do see Robert Goforth's name written under
23 name.

24 Q. All right. And the manager's DeWarren
25 Washington?

1 A. I do see that.

2 Q. All right. And let's go to the second -- oh,
3 let's see. So at the bottom of the document in the
4 bottom -- second to bottom block, you see where it
5 says "recommended level of disciplinary action"?

6 A. Yes, sir, I do.

7 Q. And it says termination for cause?

8 A. I do see that. It is marked or X'd at
9 termination for cause.

10 Q. Okay. And then let's go to the second page.

11 A. I'm on the second page.

12 Q. And then you see that this document is
13 prepared by, at the bottom, DeWarren Washington, site
14 manager?

15 A. I see that name in the signature, yes, sir.

16 Q. And the date, November 8, 2018; is that
17 correct? Date prepared by.

18 A. Prepared by, the date is 11-8, that is
19 correct. Signature date is a few days later.

20 Q. All right. And so you see the signature
21 date, November 20th, as you just referred to. And is
22 that a signature there for DeWarren Washington?

23 A. Yes, sir, it is.

24 Q. Does it appear to be a signature for DeWarren
25 Washington?

1 A. It does appear to be a signature of DeWarren
2 Washington.

3 Q. All right. Let's go up to just above that
4 where there are some boxes checked.

5 A. Okay.

6 Q. And one of the boxes that's checked, it was
7 for the question, "Was the action confirmed to be
8 willful misconduct, intentional, deliberate," and
9 there's -- it's marked no. Do you see that?

10 A. I'm looking for it, sir. Oh, so was the
11 contractor -- no.

12 Q. You're looking up four lines up from where
13 the prepared by and the signatures are where it
14 says --

15 A. Oh, yes, sir, I found it. "Was the action
16 confirmed to be willful misconduct, intentional,
17 deliberate"? It says no.

18 Q. So with respect -- would you agree that
19 Mr. Goforth's conduct -- I think as you testified to
20 earlier -- was not any kind of willful, intentional
21 or deliberate attempt to falsify?

22 MR. LANTIS: Objection.

23 MR. BERNIER: Objection to form.

24 THE WITNESS: Yes, I would agree with
25 that statement. It was not willful, or with any

1 intent to mislead or falsify something.

2 BY MR. JOHNSON:

3 Q. Do you see where it says, "Does the offense
4 create notoriety upon or negatively impact the
5 agency's reputation"?

6 A. I do.

7 Q. Do you see where it's marked no?

8 A. I see it.

9 Q. And based on everything that you've told us
10 up to now in your testimony, would you agree with
11 that statement as made by Mr. Washington?

12 MR. LANTIS: Objection.

13 MR. BERNIER: Objection to form.

14 BY MR. JOHNSON:

15 Q. And maybe I should clarify there first. Let
16 me represent to you that the "agency" would refer to
17 TVA being an agency, and so let me repeat the
18 question.

19 Would you agree that the offense creates
20 no -- does not create notoriety upon or negatively
21 impact the agency's reputation?

22 MR. BERNIER: Same objection.

23 THE WITNESS: So I'm going to clarify
24 what I believe you to be saying. You are asking me
25 the offense, being the manway cover/signing of the

1 alleged step note, whatever, does it bring a negative
2 impact or notoriety to TVA's reputation?

3 BY MR. JOHNSON:

4 Q. Correct.

5 A. I would say no, and I agree with the
6 statement no.

7 Q. While we're thinking about that statement,
8 would -- do you know how the manway cover being off
9 was remediated?

10 A. It was corrected immediately upon
11 notification. Mr. Goforth -- again, I was off so,
12 you know, I found this information out after the
13 fact, but Mr. Goforth came in. I believe a
14 maintenance work order was written to go reinstall
15 the manway, and he had some workers who were on-site.
16 I'm not sure who those workers were. You know, I
17 wasn't there. But he got some workers, knowledgeable
18 boilermakers. They went out there, they put the
19 cover on, documented everything correctly, and closed
20 out the issue.

21 Q. So did that having to put that manway cover
22 back on delay the ability -- or delay the return to
23 service and generation of electricity of Watts Bar
24 Unit 1?

25 A. No, it did not.

1 MR. BERNIER: Objection to form.

2 BY MR. JOHNSON:

3 Q. Okay. Shifting gears now, we're going to go
4 ahead and go to Document Number 4.

5 A. Yes, sir. I'm opening Document 4.

6 MR. BERNIER: Jim, since you're
7 transitioning, would now be a good time to take a
8 short break?

9 MR. JOHNSON: Certainly. How long a
10 break would you like?

11 MR. BERNIER: Five minutes will work for
12 me. I just want to get a cup of coffee.

13 MR. JOHNSON: Is a five-minute break
14 adequate for you, Mr. Whitehorn? Would you prefer a
15 longer period of time for a break?

16 THE WITNESS: Five minutes is fine with
17 me. I'm going to go to the restroom, grab a bottle
18 of water, and I'm going to come right back. Five
19 minutes should be sufficient.

20 MR. JOHNSON: All right. Five-minute
21 break. Thank you, sir.

22 THE WITNESS: Thank you.

23 (Short break.)

24 MR. JOHNSON: Okay. Are we ready to go
25 back on the record?

1 MR. LANTIS: That's fine with me.

2 THE WITNESS: I'm ready, sir.

3 BY MR. JOHNSON:

4 Q. All right. Would you please get Document 4
5 up on your computer, Mr. Whitehorn?

6 A. Yes, sir. I currently have Document 4 open.
7 This is a CR summary report.

8 MR. JOHNSON: And before we get into
9 that, I wanted to let counsel know that Mr. Goforth
10 had joined us during this testimony, and he is in the
11 room. He is not in the room right now, and I'm going
12 to proceed without him. But he pointed out that a
13 couple of times I said "2017" outage when referring
14 to what was actually the "2018" outage. So I wanted
15 to ask you, Mr. Whitehorn, something about that to
16 clear that up for the record.

17 BY MR. JOHNSON:

18 Q. When we've been discussing this manway cover
19 incident, that was during the 2018 outage, and your
20 testimony is regarding the 2018 outage at Watts Bar
21 Unit 1; am I correct?

22 A. Yes, sir, you're correct.

23 Q. And I'm not sure exactly when I referred to
24 it as the 2017 outage, but when we talked about your
25 being the TVA -- and I can't remember what the word

1 is -- superintendent or supervisor over BOP work
2 orders, that was for the 2018 outage as well;
3 correct?

4 A. That is correct, sir. I was the TVA
5 oversight/task manager.

6 Q. Thank you. All right. So let's dive into
7 this Document Number 4. And let me ask you first if
8 you have seen this document before? And, please,
9 just -- I think if you take a look at the first page,
10 you'll be able to answer that question.

11 A. Yes, sir, I am familiar with it.

12 Q. All right. And so let's go through it. Tell
13 me from looking at the first page what this CR is
14 about.

15 A. So the CR is basically summarizing the
16 performance of DZ and Unit 1R15 outage, and it
17 basically lines that out in the first paragraph of
18 the condition details.

19 Q. I see. And then do you see where it says,
20 "re-work quality issues"?

21 A. Yes, sir.

22 Q. And are among those re-work and quality
23 issues the ice condenser bay doors?

24 A. Yes, sir, they are.

25 Q. And are among those quality issues the BOP

1 manway not being installed?

2 A. Yes, sir.

3 Q. That we talked about earlier; correct?

4 A. Yes, sir, it is.

5 Q. Let me ask you, since we've already talked
6 about it, the manway cover being left off, and the
7 question that I have -- we've already talked about
8 any delays in the plant coming online. But the
9 question that I have is, when they tried to establish
10 a vacuum, is there any suction action into the
11 system, as a result of the manway cover being off,
12 sufficient to suck any kind of foreign material into
13 that piping?

14 MR. LANTIS: Objection to form.

15 THE WITNESS: No, sir, there is not.

16 BY MR. JOHNSON:

17 Q. All right. Explain to me why that would be,
18 based on your experience.

19 A. It's very easy. The picture that was sent to
20 me, I mean, this -- I like facts. Things that can be
21 proven. You look at the picture that was sent to
22 me -- and I'm sure it's out there somewhere within
23 this investigation, DZ should have it -- the picture
24 of the manway off that was taken, clearly shows the
25 FME cover nicely folded up and laying on the deck,

1 approximately three/four feet, maybe five, away from
2 the opening of the hole, and it's still sitting there
3 nice and pretty and folded.

4 So if it could suck something in, that would
5 be in the system. It cannot. You can't pull a
6 vacuum until you have a sealed-up system. Then you
7 pull vacuum, which puts a negative pressure on it.
8 You cannot get -- the vacuum pumps that we have are
9 not going to suck anything into the system.

10 Q. Had you been questioned by Mr. Reeves, or any
11 other investigator about this, you would have been
12 able to say as much if asked?

13 A. Absolutely.

14 MR. BERNIER: Objection to form.

15 BY MR. JOHNSON:

16 Q. You have experience as a boilermaker, as
17 you've testified, regarding putting these manway
18 covers on, and so I'm asking you to draw on that
19 boilermaker experience.

20 Estimate for me, if you will, please, the
21 likelihood that -- well, let me ask it this way
22 first. Are boilermakers given any instructions with
23 respect to FME covers on manways that are opened?

24 MR. BERNIER: Objection to form.

25 THE WITNESS: Yes, sir, they are. And

1 it's trained -- I can speak from not only my training
2 as a boilermaker as well as work experience, and then
3 even into my supervision years, you always, when a
4 system is opened and after you are complete working
5 on it, before you leave the job site, whether it be
6 for a break, whether it be for lunch, or whether it
7 be for the end of your shift, or just you're complete
8 with your work and you need to leave, you always
9 reinstall your FME cover.

10 I mean, that's a standard -- that's not
11 just boilermakers. That's all craft. That is a
12 standard core value in nuclear power work, and even
13 beyond nuclear power. I've never been to an oil
14 refinery or a coal fire plant that didn't have the
15 same process.

16 BY MR. JOHNSON:

17 Q. So based on what you have just told me,
18 estimate for me the likelihood that it would have
19 been boilermakers working on taking off or putting on
20 that manway cover who would have left the FME cover
21 laying on the scaffolding, three or four feet from
22 the manway as you've just described?

23 MR. LANTIS: Objection to form.

24 MR. BERNIER: Objection to form.

25 THE WITNESS: The way I can answer that,

1 Jim, is that it would be out of character of any
2 craftsman at Watts Bar to leave the manway cover off.
3 I don't know that a manway cover being off could give
4 me enough information to say it was a boilermaker.
5 But I can say that a manway cover being off is
6 against the way all FME workers are taught, and
7 everyone who works on a system that has FME, has to
8 be an FME worker. They have to have that training.
9 So that's against all craft that are out here to
10 leave an FME cover off like that.

11 BY MR. JOHNSON:

12 Q. All right. If I represent to you -- and you
13 can take this as a hypothetical question if you
14 wish -- if the manway certification by boilermakers
15 that the manway cover was put back on were made
16 approximately ten days before the manway was found
17 open with the FME cover off, what opportunities can
18 you explain why others may have -- then the
19 boilermakers assigned to this work order, would have
20 removed that manway?

21 MR. LANTIS: Objection to form.

22 MR. BERNIER: Objection to form.

23 BY MR. JOHNSON:

24 Q. Or that anyone else would have -- estimate
25 for me whether anyone else would have removed that

1 manway cover after it was installed during that
2 approximately ten-day period?

3 MR. LANTIS: Objection to form.

4 MR. BERNIER: Objection to form.

5 BY MR. JOHNSON:

6 Q. Based on your experience with the way this
7 work is performed?

8 MR. LANTIS: Objection to form.

9 THE WITNESS: Jim, I'm trying to think of
10 how to answer your question.

11 BY MR. JOHNSON:

12 Q. Well, let me help you a little bit then
13 before you answer. The purpose of taking these
14 manway covers off, is it not, is so that FAC
15 inspections can be performed inside the manways; is
16 that correct?

17 A. That is correct, sir.

18 Q. And tell us what FAC stands for. And if you
19 can't, just tell us what --

20 A. You actually -- I kind of pride myself on
21 knowing all our acronyms, but you got me there. I
22 know the last one, I believe, is corrosion, but I
23 can't -- it's basically a group that goes in and
24 through various methods test corrosion on the plant.
25 And in this particular case they're going in to test

1 wall thickness, turning vanes, making sure everything
2 is set for another 18-month run.

3 Q. So it's the boilermakers under this work
4 order who take the manway covers off; correct?

5 A. That is correct, sir.

6 Q. And it's the boilermakers under this
7 particular work order that put the manway covers back
8 on after the FAC inspections; correct?

9 A. That is correct, sir.

10 Q. And so during that time period all of these
11 FAC inspections are done, is that correct, between
12 the taking off and the putting back on?

13 A. That is correct.

14 Q. So in your -- so in your experience -- and
15 let me go back to my prior question -- given that
16 these FAC inspections are necessary, what is the
17 likelihood that someone other than boilermakers could
18 have taken that manway cover off after it was
19 reinstalled by --

20 MR. BERNIER: Objection to form.

21 MR. LANTIS: Objection to form.

22 BY MR. JOHNSON:

23 Q. Let me ask it this way. Has that ever
24 happened before?

25 A. It has happened, yes. It has happened and

1 I'm not sure of what process was used to do it, but
2 it has happened at Watts Bar where FME was dropped in
3 to the piping from turbine deck in their scope of
4 work, and they had to go in and go into a cross-under
5 manway to retrieve the FME.

6 So -- and that was basically kind of the
7 direction that I was going to answer your question,
8 and the only way I can answer is, that it's not
9 unplausible. I can't really give you a likelihood on
10 it, but I can say that it is not unplausible.

11 Q. All right. Thank you, sir.

12 So looking again on Page 1 of Document 4 --
13 which now that it's identified, let's have this
14 admitted as the next exhibit -- which would be
15 Exhibit 71?

16 THE REPORTER: Yes.

17 MR. JOHNSON: Okay.

18 MR. LANTIS: I just want to make a quick
19 point of clarification. We keep using the phrase
20 "admitted," and while I understand -- I think I
21 understand that you're just saying let's mark that as
22 an exhibit. I just don't want there to be any
23 confusion that we're in some way stipulating to the
24 admissibility of any document that's been used at one
25 of these depositions at trial.

1 It just kind of dawns on me that we're
2 using the term "admit," and that is a very trial-ish
3 word, and I just want to make clear that we certainly
4 haven't agreed or waived our ability to challenge the
5 admissibility of any documents entered during a
6 deposition at trial.

7 MR. JOHNSON: And I would agree with that
8 statement, and to the extent I use the word "admit,"
9 let's just understand that to mean "marked," and I'll
10 try to say marked.

11 MR. LANTIS: It's just something that's
12 been on my mind. I just wanted to say it while I was
13 thinking about it.

14 MR. JOHNSON: That's a fair point. All
15 right. So this is going to be marked as Exhibit 71;
16 that is, Document 4 is going to be marked as
17 Exhibit 71.

18 (Document was marked for identification
19 as Exhibit Number 71.)

20 BY MR. JOHNSON:

21 Q. So looking back to the first page of what's
22 now been marked as Exhibit 71, we've talked about
23 that the ice condenser bay doors being swapped when
24 reinstalled, and we've talked about the cross-under
25 manway. Are there other re-work quality issues

1 listed there, in addition to the ice condenser and
2 the BOP manway?

3 A. Yes, sir. Re-work, yes, sir.

4 Q. You want to take a look for a moment and just
5 familiarize yourself with what those are before I ask
6 any questions about it, and let me know when you're
7 ready?

8 A. Okay.

9 Q. All right. From looking at all of these, can
10 you identify whether any of these, or which, if any
11 of these, would be, from a nuclear safety
12 perspective, a safety issue?

13 MR. BERNIER: Objection to form.

14 MR. LANTIS: Yeah, I'll object as well.

15 THE WITNESS: The form of the question,
16 Jim, is a little hard for me to answer. I mean --
17 because I guess the reason, my thought here is,
18 you're asking me if any of these are nuclear safety
19 concerns, and without -- if none of them had been
20 fixed, then they all would be. You know, they would
21 all affect something. Maybe not necessarily nuclear
22 safety. You know, we do have a safety-related system
23 here, the ice condenser, so that obviously would be
24 nuclear safety. You've got some of the secondary
25 site. You'd have a RAD monitor.

1 I mean, you know, again, could they be
2 nuclear safety? Without being fixed, they all kind
3 of carry that title. So I guess that's where my
4 struggle is with the answer. I don't know if I've
5 answered your question or -- at least that's my --

6 BY MR. JOHNSON:

7 Q. Yeah, I think that answers and it narrows the
8 focus a little bit. So let me follow up on your
9 narrowing of the focus.

10 As between the ice condenser and the BOP
11 manway cover, which, if either of those, is a -- I
12 think you said nuclear safety-related item?

13 MR. BERNIER: Objection to form.

14 THE WITNESS: The ice condenser is a
15 safety-related system. It is a passive system that
16 is used in the safe shutdown of the plant in the
17 event of a main steam line break LOCA. And so, yes,
18 it is a safety-related system.

19 BY MR. JOHNSON:

20 Q. What about the BOP work on the cross-under
21 manways, is that a safety-related system?

22 A. No, sir, it is not.

23 Q. What would be a safety-related consequence of
24 Bay 5 and 6 doors being swapped when reinstalled?

25 What could be a safety-related consequence of that

1 item?

2 MR. BERNIER: Objection to form.

3 MR. LANTIS: Objection to form.

4 THE WITNESS: So --

5 BY MR. JOHNSON:

6 Q. Maybe what you need to do here, and let me
7 interrupt you and rephrase that question.

8 Tell us what ice condensers are and what
9 they're supposed to do for the safety of the plant.

10 A. Okay. So an ice condenser is, again, a
11 passive system, meaning that it is not used for
12 anything unless called into service. How it would be
13 called into service is if we have a main steam line
14 break LOCA. And a LOCA is an acronym for loss of
15 containment -- I've got to write this down so I can
16 get it right. Hold on just a second.

17 MR. BERNIER: Greg, you don't need to
18 pull stuff up and look into anything. Just based on
19 what you know.

20 THE WITNESS: I'm just trying to
21 remember. A LOCA is a term used for a loss of
22 containment integrity where we align the rupture, and
23 the steam would just burst out of the main steam
24 line, okay, and that would be on the primary side.
25 Primary being the radioactive side.

1 What would then happen is the steam would
2 bust out, come out, and it would -- through the
3 pressure it would push open the lower end of the
4 doors of the ice condenser, the steam would then go
5 up into the ice bed. The ice is designed to cool the
6 steam and condense it back into water. Of course,
7 it's not going to stop it because of the pressure.
8 Again, it's part of an entire system to help us to
9 get everything under control when this happens.

10 But the steam will continue on up. It
11 will pop open the intermediate deck doors. It also
12 has vent -- passthrough vent curtains. It'll pop
13 open the top deck blankets, and it works its way
14 through and circulates. The idea here is to allow
15 you to get RHR, which is residual heat removal, and
16 other systems that are designed to bring this under
17 control back in service.

18 BY MR. JOHNSON:

19 Q. I see. When you say "loss of containment,"
20 what are you talking about being contained that's
21 lost?

22 A. Steam. Steam inside your main steam lines.

23 Q. And if that steam is lost, is there a
24 consequence to that?

25 A. Yes, sir.

1 Q. What would that be?

2 A. So if the system did not work and it was
3 impeded or a function was lost in it, pressure could
4 build up in containment such that it could rupture
5 containment and you would then have a radioactive
6 issue with the public. A plume would happen. It
7 would burst out, it would come out, and there would
8 be an emergency situation where the public would have
9 to be evacuated and so on. I apologize. My
10 terminology's not really good right now.

11 Q. And so for that system to work correctly, the
12 ice condenser, to prevent that consequence from
13 occurring, the bay doors have to be on the right
14 opening?

15 A. That is correct.

16 Q. All right. Going further into this document,
17 take a look at the second page of it, please, sir.

18 A. Second page of the document. Okay.

19 Q. And who is -- does it say is the originator
20 of this CR?

21 A. John Rhodes.

22 Q. And that's your boss; correct?

23 A. That is correct.

24 Q. At the time of this CR he was your boss;
25 correct?

1 MR. BERNIER: Objection to form.

2 MR. LANTIS: Objection to form.

3 THE WITNESS: As the owner, he would have
4 had to have agreed with the findings. He may not
5 have been the one to do the common cause, and he may
6 not have been the one to make the determinations, but
7 as the owner, he would have had to agree with those
8 findings since his name is on it.

9 BY MR. JOHNSON:

10 Q. All right. To your knowledge, was an
11 investigation made into the ice condenser bay doors
12 being swapped conducted by Mr. Reeves?

13 MR. LANTIS: Objection to form.

14 MR. BERNIER: Objection to form.

15 THE WITNESS: To my knowledge, no, sir, I
16 do not know of one.

17 BY MR. JOHNSON:

18 Q. To your knowledge, did Mr. Washington
19 initiate any investigation into the ice condenser bay
20 doors being put in the wrong places?

21 MR. LANTIS: Objection to form.

22 THE WITNESS: To my knowledge, no, sir,
23 he did not.

24 BY MR. JOHNSON:

25 Q. If he had ordered an investigation, would

1 THE WITNESS: It worked. Well, I say it
2 worked. It is and it isn't. It's spinning.

3 MR. JOHNSON: It's a long document, so it
4 may take it a while to fully download.

5 THE WITNESS: Okay. That makes sense, I
6 guess.

7 MR. JOHNSON: Just let me know when it
8 appears to be complete.

9 THE WITNESS: It is still spinning.

10 MR. BERNIER: Can we go off the record
11 here, Jim?

12 MR. JOHNSON: Sure.

13 (Off-the-record discussion was held.)

14 THE WITNESS: Okay. Yes, sir, I have it
15 here now.

16 MR. JOHNSON: Terrific.

17 BY MR. JOHNSON:

18 Q. Okay. Referring to Document 5 then, please,
19 sir, look at the first page and tell me what you see
20 it saying there.

21 And maybe I can just help you out with this
22 and lead a little bit. This appears to be a routine
23 work order. Number ending in digits 5968?

24 A. That is correct, sir. This is the ice
25 condenser servicing work order for Unit 1R15.

1 Q. I see. And so this would be during the 2018
2 outage, fall 2018 outage in Unit 1?

3 A. That would be correct.

4 Q. And this would be --

5 A. And how I know that -- I'm sorry, I just want
6 to clarify for the record. How I know that is the
7 outage ID is 115 fox trot. The 1 denotes the unit,
8 the 15 denotes the outage, and fox trot let's me know
9 that it was in the frozen scope. So that's how I
10 know what this -- where this work order, what it's
11 from, because I do not remember work order numbers
12 off the top of my head.

13 MR. JOHNSON: I see. All right. Your
14 having identified it, I want to mark this exhibit as
15 Number 72.

16 (Document was marked for identification
17 as Exhibit Number 72.)

18 BY MR. JOHNSON:

19 Q. All right. So let's move to the page --
20 there are Bates number -- what we call Bates numbered
21 pages in lawyer world at the bottom of this, and the
22 Bates number on this one is TVA-Goforth 3408 on the
23 page that you were just looking at.

24 A. That's correct, sir.

25 Q. Do you see that?

1 All right. Now, what I want you to do is, go
2 to Page 3409, the next page.

3 A. Yes.

4 Q. Then I want you to look at 3409 and 10, and
5 let me know when you've had a chance to look at
6 those.

7 A. Okay.

8 Q. All right. Taking a look at these pages,
9 3409 and 3410, it appears to me that these are on
10 documents entitled "actual work performed"; is that
11 correct?

12 A. That is correct, sir.

13 Q. And based on your experience with these work
14 orders as you testified to, what do the actual work
15 performed pages indicate?

16 A. The actual --

17 Q. And I'm talking as a general matter in work
18 orders, what are actual work performed pages for, and
19 what do they indicate?

20 A. So actual work performed pages are used for
21 the supervisor or the workers, whoever it is that is
22 tasked with doing that, to go in and write down the
23 activities that were performed on their respective
24 shift.

25 Q. Okay. And --

1 A. It's kind of a journal of the work that's
2 being done.

3 Q. And this -- on these work orders appears to
4 have entries made -- well, yeah, so let me clarify
5 what you just said first before I get into that
6 question.

7 Who is it that is supposed to make these
8 entries on here?

9 MR. BERNIER: Objection to form.

10 THE WITNESS: It should be the workers or
11 the supervisor, or the foreman. That can be general
12 foreman, foreman, or worker, should be the one to do
13 the data entry.

14 BY MR. JOHNSON:

15 Q. All right. And so this appears to be showing
16 data entry for all days and nights from October the
17 5th of '18 to October the 9th of '18. Would that be
18 correct --

19 A. Yes, sir.

20 Q. -- on these pages?

21 And does it all seem to be the same person
22 who is making these entries?

23 MR. LANTIS: Objection to form.

24 THE WITNESS: The handwriting appears to
25 be the same throughout the document -- throughout

1 this page.

2 BY MR. JOHNSON:

3 Q. All right. And are there initials
4 identifying the person?

5 A. It looks like RTJ.

6 Q. All right. And would you know who that is?

7 A. That should be Robert Terrence Johnson.

8 Q. And is Robert Terrence Johnson a craft worker
9 or is he a non-manual person as assigned to the ice
10 condensers?

11 A. He is a non-manual person assigned to the ice
12 condensers as a field engineer.

13 Q. So are non-manuals allowed to conduct actual
14 work?

15 MR. BERNIER: Objection to form.

16 THE WITNESS: The words that you said,
17 are they "allowed to conduct actual work," the answer
18 to that is, no, they are not allowed to conduct
19 actual work.

20 BY MR. JOHNSON:

21 Q. And so if this form is supposed to be filled
22 in by only people who actually did the work, how do
23 we account, if at all, for why Robert Johnson, as a
24 non-manual worker, would be filling all these in?

25 MR. BERNIER: Objection to form.

1 MR. LANTIS: Same objection.

2 THE WITNESS: That's a good question,
3 sir, and one that I don't have an answer for because
4 it should have been the workers who filled this out.
5 I don't know why a field engineer would be writing
6 days and nights on it. That is definitely not
7 appropriate.

8 BY MR. JOHNSON:

9 Q. Would any one person be working to perform
10 work on continuous days and nights for, let's see,
11 one -- well, from October the 5th to October the 9th,
12 however many days that is?

13 A. No, sir. That would be -- one, it's
14 physically and theoretically impossible, but that
15 would be a huge violation of the fatigue rule as
16 well.

17 MR. BERNIER: Also, I want to object to
18 the form of that question.

19 BY MR. JOHNSON:

20 Q. All right. Now, I'll direct your attention
21 to the Bates numbered page at the bottom from 3424 to
22 3430.

23 A. 3430?

24 Q. 3424 to 3430.

25 A. I understand. 3424. I'm getting to it.

1 Okay, I'm on 3424, and you want me to just look
2 through these pages?

3 Q. Yeah, just look through those for a minute,
4 keeping in mind your testimony about -- well, first
5 let me just ask you to identify. Do these all appear
6 to be more actual work performed pages?

7 A. Yes, sir, they do.

8 Q. All right. And keeping in mind what you just
9 testified to on the other actual work performed
10 documents we just went through, go ahead and take a
11 look through all of these pages and let me know when
12 you're done.

13 A. What was the final page, sir?

14 Q. 3430.

15 A. 3424 to 3430. I understand. Okay, sir, I've
16 looked at them.

17 Q. All right. Aside from one entry made by
18 someone with the initials "CPH" on Page 3424, do all
19 of the rest of these entries seem to have been made
20 by whom you've identified as Robert Johnson on all
21 these pages?

22 A. Yes, sir, it does.

23 Q. So would the same testimony that you gave
24 regarding the two actual work performed pages that we
25 just went over before this apply to these pages as

1 well?

2 MR. LANTIS: Objection to form.

3 THE WITNESS: Yes, sir, it does.

4 BY MR. JOHNSON:

5 Q. Okay. I'm now -- well, let me ask you this
6 before we get off of -- that's the last of the actual
7 work performed documents that we're going to go over
8 on this work order, so my question for you now is,
9 had an investigation been performed on this work
10 order, as was performed on the work order that
11 Mr. Goforth was terminated as a result of, would the
12 things that you have testified about these work
13 performed pages likely been noted in investigations?

14 MR. BERNIER: Objection to form.

15 MR. LANTIS: Form.

16 THE WITNESS: That is definitely a high
17 probability that that would have been something that
18 was brought up and found, due to the fact when you
19 would look at -- your investigation is going to draw
20 you to what documentation is out there. You're going
21 to look at all the facts.

22 And it would have definitely been a
23 questioning statement to have asked why is this
24 individual, who is on day shift and is non-manual,
25 making entry logs for every single shift and he's a

1 non-manual. So it definitely would have been
2 something I would have probably questioned had I done
3 the investigation.

4 BY MR. JOHNSON:

5 Q. All right. But it's my understanding that no
6 investigation was ordered or initiated by
7 Mr. Washington on this work order?

8 MR. LANTIS: Objection to form.

9 MR. BERNIER: Objection to form.

10 THE WITNESS: To my knowledge, there was
11 no investigation ordered.

12 BY MR. JOHNSON:

13 Q. And to your knowledge, was the only
14 investigation of those items found on the CR that we
15 went through into the work order that Mr. Goforth was
16 terminated as a result of?

17 MR. LANTIS: Objection to form.

18 MR. BERNIER: Objection to form.

19 THE WITNESS: I'm thinking, Jim. So to
20 answer your question, I was not aware of any
21 investigation that went beyond the questioning of a
22 supervisor, or possibly a worker, as to what
23 transpired. No statements, to my knowledge, were
24 taken, no records were pulled. All the different
25 things that can be done for an investigation, there

1 was nothing else done, nor was Mr. Reeves, again to
2 my knowledge, on site performing any investigations.

3 BY MR. JOHNSON:

4 Q. And I take it, except as to the manway cover
5 being off as related to Mr. Goforth?

6 A. That is correct, sir, with the exception of
7 Mr. Goforth and the manway.

8 Q. And TVA has indicated in responses to our
9 discovery that no one was disciplined from Day &
10 Zimmermann for actions during this 2018 outage in
11 Unit 1, other than Mr. Goforth. Would that be
12 consistent with your knowledge?

13 MR. LANTIS: Objection to form.

14 MR. BERNIER: Objection to form.

15 THE WITNESS: So to my knowledge, I do
16 not know of any other disciplinary actions that were
17 taken against any individuals. And how I base that
18 statement is, visually I did not see anyone missing a
19 day or leave the job or anything of that nature.

20 And the reason I say that is, I would not
21 be privy to a coaching session, a write-up, anything
22 of that nature. But as far as someone being
23 disciplined to the extent of days off or termination,
24 there was none of that.

25 //

1 BY MR. JOHNSON:

2 Q. Except as to Mr. Goforth?

3 A. That is correct, except for Mr. Goforth.

4 Q. Okay. Let's move on then. I want you to
5 turn, please, sir, to Bates stamp Page 3599.

6 MR. LANTIS: Sorry, Jim. Could you say
7 that page one more time?

8 MR. JOHNSON: 3599. It's also Page 121,
9 I think, of that document.

10 THE WITNESS: Sorry, Jim. I've got a
11 laptop here with a little screen. It's taking me a
12 little while to get to it.

13 BY MR. JOHNSON:

14 Q. You're fine. Just let me know when you're
15 there.

16 A. Okay. Page 121, and it is Bate stamp 3599.
17 Okay, I'm on it.

18 Q. Okay. So I'm going to be asking you --

19 A. I apologize, Jim. Give me just a second. I
20 need to rotate the view because it's sideways on me.

21 Q. Yeah, sorry about that. I think everybody
22 has to do it. I know I did.

23 A. Okay. I have rotated it, and I am looking at
24 Attachment 10, again Page 121 to 149, and this is
25 Page 1 of 3. Go ahead, sir.

1 Q. All right. So I'm going to be asking you
2 about that page and the subsequent page, page 3600.

3 A. Okay.

4 Q. Those two pages. So you want to take a look
5 at those for a minute and let me know when you're
6 ready to talk about them.

7 MR. LANTIS: I'm sorry. Are we still on
8 Exhibit 5?

9 MR. JOHNSON: Yes.

10 MR. LANTIS: My pages are not the same as
11 what y'all are looking at, I guess.

12 MR. JOHNSON: Well, are you using the
13 Bates stamp page numbers?

14 MR. LANTIS: Well, I'm going to try that
15 now. Because you said 121. It's not 121 for me.

16 MR. JOHNSON: Well, it's Page 121 of the
17 actual document, but the Bates stamp number is 3599
18 at the bottom, or it may be on the left-hand side
19 based on what your view is.

20 MR. LANTIS: For me, in my documents,
21 it's Page 192 of the document, but I think I
22 downloaded from the Box site. So I just want to make
23 sure we're all reading from the same page.

24 MR. JOHNSON: Okay, but you're on --

25 MR. BERNIER: Paul, I think you're on

1 Page 192 of the PDF. There's an internal page number
2 on the work order.

3 MR. LANTIS: I see it. I understand.

4 MR. JOHNSON: So are you with us, Paul?

5 MR. LANTIS: I am. Thanks.

6 BY MR. JOHNSON:

7 Q. All right. So just let me know when you're
8 finished looking at these pages, 3599 and 3600,
9 please, sir.

10 A. I'm good.

11 Q. All right. It appears to me that under a
12 column that's entitled "Section step 6.17.2(2), there
13 are not any signatures. There's some dates, but no
14 signatures. Are you with me?

15 A. Yes, sir.

16 Q. And then if you look at the next page there
17 are also dates, but no signatures. Are you with me?

18 A. Yes, sir.

19 Q. And it appears to be saying that there are 24
20 possible entries for signing and dating, and that
21 that seems to correspond with bay numbers 1 through
22 24. Would that be correct?

23 A. Yes, sir.

24 Q. So this would include the bay numbers 5 and 6
25 that were referenced in the CR as being in the wrong

1 place?

2 MR. BERNIER: Objection to form.

3 MR. LANTIS: Objection to form.

4 THE WITNESS: It would, but it's not the
5 signature for the doors, but it is a missing
6 signature for basket clevis pin and cotter key
7 installation.

8 BY MR. JOHNSON:

9 Q. Okay. Well, tell us what that means then,
10 basket clevis pin, cotter key installation?

11 A. So the ice condenser is comprised of 1,944
12 baskets that are 12 inches in diameter and 48-feet
13 long. At the bottom of those baskets they have a
14 clevis pin that is run through a mechanical joint
15 which locks the basket into place to prevent it from
16 becoming a projectile in the event that the main
17 steam line breaks and we get a rush of
18 super-pressured steam into containment. The pins are
19 what keeps them, again, from becoming a missile and
20 possibly breaching containment.

21 Q. So if those pins are not properly installed,
22 what could be the consequence of that?

23 MR. LANTIS: Objection to form.

24 THE WITNESS: Are we talking about in an
25 accident event?

1 BY MR. JOHNSON:

2 Q. I'm talking about under normal circumstances,
3 and then under an accident event. Why don't you just
4 take them one at a time.

5 MR. LANTIS: Objection to form.

6 THE WITNESS: Under normal circumstances,
7 if the pins were not in, the ice condenser is
8 declared inoperable and we would not be able to move
9 from Mode 5, which is a classification of power
10 ascension. When coming out of an outage, we could
11 not move into Mode 4. And in laymen's terms for
12 anyone who doesn't understand that, it means we can't
13 turn -- we cannot turn our reactor on.

14 BY MR. JOHNSON:

15 Q. All right. I think you've explained that
16 under normal circumstances. Explain it under, what
17 did you say, containment circumstances, or accident
18 circumstances?

19 A. Yes, sir. Accident circumstances, meaning
20 that the ice condenser is now being called into
21 service to do its designed function. The
22 potential -- and I have to say potential because an
23 ice condenser has never been called into service and
24 it's all hypothesis and calculations. But the
25 hypothesis is that without these pins the potential

1 for a basket to become a projectile, or a "missile"
2 as we refer to them just because it's cylindrical and
3 it looks like a missile, that's just kind of our
4 terminology, it could come out and breach
5 containment, and then we would then have a
6 radioactive release to the public.

7 Q. All right. So this is definitely a nuclear
8 safety -- well, a signoff here that's of nuclear
9 safety consequence?

10 MR. LANTIS: Objection to form.

11 MR. BERNIER: Objection to form.

12 THE WITNESS: I would have to say yes.

13 BY MR. JOHNSON:

14 Q. Looking also at the column that's marked
15 6.18.4 where it says inter deck doors, frames, beams,
16 curtains installed, it appears that RTJ, who you
17 identified as Mr. Johnson, has signed off on all of
18 those. Would I be correct about that?

19 A. Based off of the writing before and the
20 initials, yes, sir, I would agree with your statement
21 that it looks like RTJ, Robert Terrence Johnson, is
22 the one who did the signing for those.

23 Q. And if you look at the second page, he did
24 the signing for that column on all 24 ice bays; did
25 he not?

1 A. Yes, sir, that's correct.

2 Q. And so who is supposed to be making the
3 certifications here -- well, I shouldn't call them
4 certifications without knowing. What are you doing
5 when you sign in this particular column? What are
6 you signing for?

7 MR. BERNIER: Objection to form.

8 THE WITNESS: You're signing that you
9 installed the doors, frames, beams and curtains.

10 BY MR. JOHNSON:

11 Q. Oh, so this is the one that actually says the
12 doors, such as doors 5 and 6, that were found to be
13 in the wrong place were installed?

14 A. That is correct, sir.

15 Q. And is that supposed to be signed off by a
16 craft non-manual?

17 MR. BERNIER: Objection to form.

18 THE WITNESS: No, sir.

19 BY MR. JOHNSON:

20 Q. Okay. So a supervisor can sign off on that?
21 Or let me put it this way. A field engineer who had
22 the position of Mr. Johnson can sign off on that?

23 MR. BERNIER: Objection to form.

24 BY MR. JOHNSON:

25 Q. All right. Let me ask it this way. What

1 conditions --

2 MR. BERNIER: Jim, let him answer the
3 question that he was about to answer.

4 BY MR. JOHNSON:

5 Q. Okay. If you remember the question and can
6 answer it, please do.

7 A. Yes, sir. The question was, is can a field
8 engineer sign for this step, and I'm going to have to
9 say no.

10 Q. And why would that be?

11 A. This needs to be who it was that did the
12 actual installation, and that's kind of for multiple
13 reasons. One, so we know who did it, so that we can
14 go back if we need to ask a question, such as, Bay 5
15 and 6. It'd be nice to know who it was to be able
16 to, you know, talk to those individuals and find out,
17 you know, what their thought process was, how did
18 they, you know -- to get learnings, you know. That's
19 one piece.

20 But the bigger piece of it too is, this is a
21 safety-related system. We have to be able to make
22 sure the people who are doing things are qualified,
23 and make sure that they're within the fatigue rule,
24 and this individual was not.

25 Q. All right. And so that next column it says,

1 "Torque wrench ID number." Is that the torque wrench
2 that would have been used by the manual craft
3 installer to install those doors?

4 A. That would be a true statement.

5 Q. Okay. And so the last column is about
6 foreign material equipment removed, and that also,
7 for all 24 bays, if I'm correct, and please check,
8 was signed off by field engineer Johnson. Am I
9 correct?

10 A. Yes, sir, you are correct.

11 Q. So comment for me what the purpose of that
12 step is.

13 A. That step would be to make sure that all,
14 again, foreign material -- foreign material being
15 anything that is not meant to be there -- and in the
16 ice condenser, if it's not part of the system or ice,
17 it's not supposed to be in there. So that's
18 validating that it is out, as well as all the
19 equipment that was brought in to do the servicing.

20 Q. And so please tell us, if you can, whether or
21 not it would be appropriate for the field engineer to
22 sign off on that.

23 MR. BERNIER: Objection to form.

24 MR. LANTIS: Objection to form.

25 THE WITNESS: I'm going to have to say

1 that, no, that's not an appropriate thing for a field
2 engineer to sign off for.

3 BY MR. JOHNSON:

4 Q. All right. So my last question with regard
5 to these signoffs, similar to the ones on the work
6 performed, what is the likelihood that an
7 investigation into the ice condenser doors being put
8 on incorrectly would have turned up these problems
9 that you've just identified if an investigation had
10 occurred, as it did in the case of Mr. Goforth?

11 MR. BERNIER: Objection to form.

12 MR. LANTIS: Objection to form.

13 THE WITNESS: I feel confident in this
14 answer to say that had I done an investigation, and
15 anyone with knowledge had done an investigation, it's
16 a hundred percent likelihood that it would have been
17 identified.

18 And what I mean by "would have been
19 identified" is first off, anyone doing an
20 investigation is going to go straight to Page 5 and
21 6, just as they did with the manway incident, and
22 they would look and see who was it that installed it
23 because we need to talk to those individuals. We
24 need to find out, you know, what happened. How did
25 this error trap? How did this, whatever it was, come

1 about.

2 And the first thing I would have noticed
3 is I've got RTJ for every single one of them, and I
4 would be wanting to know why. You know, that doesn't
5 tell me who did this work. I can't identify
6 anything.

7 And then had I had the time to look this
8 document over, and I was doing my investigation, I
9 would have looked at the other signatures and I would
10 have immediately seen that we have no signatures for
11 basket clevis pins and cotter keys being installed.
12 So, yes, high likelihood with anyone else. Very
13 high. A hundred percent with myself. There you go.

14 BY MR. JOHNSON:

15 Q. Okay. Let's take a look, please, sir, at
16 Page 3601 and, again, I'm talking about the Bates
17 stamp number at the bottom of the page, or it may be
18 on the left based on your orientation.

19 A. Give me just a second because it's not -- oh,
20 there it is. Okay. What was the number again, sir?

21 Q. 3601.

22 A. Okay. Okay, I'm on 3601. That should be
23 Attachment 10, Page 3 of 3, and as it relates to the
24 MI-61.06, it's Page 123 of 149. Go ahead, sir.

25 MR. JOHNSON: Paul and Mike, are you with

1 us?

2 MR. LANTIS: I'm there. Go ahead.

3 MR. JOHNSON: And Stephen, you with us?

4 Okay.

5 BY MR. JOHNSON:

6 Q. All right. This says, does it not,
7 Attachment 10, Page 3 of 3, bay restoration, and then
8 it's signed apparently by someone named Scott Terry
9 as field engineer/supervisor's signature.

10 What, if anything, can you tell us about the
11 meaning of that signature at this point in this work
12 order?

13 A. So that signature to me, being the last page
14 on Page 3 of 3 for an attachment, and underneath
15 remarks -- obviously the remarks being, all right, if
16 you had anything you needed to jot down, mark down as
17 a note for us to know in the future, whatever.
18 Obviously there's nothing there so there was nothing
19 of note, and he is signing this stating that
20 everything in this document was complete.

21 Q. So in your opinion, based on your experience
22 and your knowledge of this work order, should this
23 person have noted the missing signatures that we saw
24 on the clevis pin column before signing this?

25 MR. LANTIS: Objection to form.

1 MR. BERNIER: Objection to form.

2 THE WITNESS: Doing his job, yes, he
3 should have noted that there were missing signatures.

4 BY MR. JOHNSON:

5 Q. Anything else that that signature signifies
6 to you there in relation to your testimony about all
7 the pages we went over?

8 A. Nothing more than what I just stated. He is
9 validating -- he's validating at least the data's
10 there. That much he is doing. Whether or not you're
11 validating the actual field conditions, I don't know
12 that I would go that far, but I would say that you're
13 at least validating the data is there.

14 Q. So I take it that what you're saying is, that
15 this field engineer/supervisor, Scott Terry, did not
16 necessarily need to go and check to see physically
17 that those doors were on as represented by these
18 documents?

19 MR. LANTIS: Objection to form.

20 MR. BERNIER: Objection to form.

21 THE WITNESS: Yes, that's what I said.
22 Yes. I don't know that I could stretch out that he
23 was supposed to go validate all of this work was
24 done, but -- because you can't. I mean, it kind of
25 goes back to the same issue that we have at hand here

1 with the manway. You can't validate that 24 bays
2 were torqued. When they're done -- you know, it's
3 supposed to be done on multiple shifts, you can't --
4 you know, I mean, and you can't physically see all of
5 those bolts get torqued.

6 So, again, I would not say that this
7 signature is denoting field work. I would say this
8 signature is supposed to be validating the document
9 is complete, and if there are any remarks that came
10 from the field or information provided to him he
11 would put it in there. And then he signs that it is
12 complete. That's what I believe that that signature
13 step is stating, and I have procedure to back me up
14 for that.

15 BY MR. JOHNSON:

16 Q. All right. So you mentioned a comparison of
17 this situation being analogous to Mr. Goforth. So
18 let's amplify that a little bit, if we may. Let me
19 ask you, with Mr. Goforth's signing where he signed,
20 as you've already testified to to Section 3.1.13, I
21 think it was, where his signature was where he was
22 disciplined for, would the expectation there be the
23 same as for Mr. Terry here, that he wouldn't have
24 actually gone and looked at every one of these manway
25 covers physically to make sure that they were there?

1 MR. LANTIS: Objection to form.

2 MR. BERNIER: Objection to form.

3 THE WITNESS: I'm going to clarify my
4 statement, and that's that I can't say that I agree
5 with that because the signature, based off procedure
6 and what it is, was not doing any validation. That
7 step or that note, whatever you want to call it, was
8 providing information to the supervisor that the
9 location of the field work was going to be documented
10 on the MMTP-104 data sheets, that it was going to be
11 documented on the TI-27 data sheets for cleanliness,
12 and all of that information would be documented
13 there. That's what I believe procedurally it was
14 doing.

15 The difference between that scenario and
16 this one, that one was just getting information and
17 acknowledging the information. This one was signing
18 that the document was completed. Now, the
19 correlation between those two is the statement that
20 was made is that this was -- that Mr. Goforth signed
21 a validation that work was performed, when there is
22 no way possible that you could have done that because
23 the MMTP-104 data sheet is not just the manways on.
24 It is documenting validation that you've cleaned your
25 seating surface, your bolts are lubed and chased,

1 your gasket's new. All of these different attributes
2 that are being looked at in ten different locations
3 over multiple days. It can't be done.

4 And in this particular case they were
5 actually done on night shift, the opposite shift. In
6 previous outages, they've been done on multiple
7 shifts. You cannot validate work that you didn't
8 watch and you didn't see. This is the problem with
9 this.

10 And those were some of the learnings that
11 came from this that we had to change this. This was
12 not okay. There was an error trap that was put here
13 and here's what happened. But that's what it is, is
14 an error trap. And all we have here, at most, is a
15 human performance issue that should have required
16 some coaching to not only Mr. Goforth, but the entire
17 department for us all to learn, as well as the
18 planning department because that step note, whatever,
19 should never have been written that way, ever.

20 BY MR. JOHNSON:

21 Q. So where you have a work order that has a
22 problem like you've just identified for the work
23 order section that Mr. Goforth was terminated for,
24 what is the correct way procedurally to deal with a
25 note or a work order that's badly written and giving

1 seemingly conflicting -- subject to conflicting
2 interpretations?

3 How do you -- what procedurally is done to
4 rectify that?

5 A. So I have to ask a clarifying question. Are
6 we talking about -- because it kind of depends upon
7 when the identification of it happened. You know, if
8 we're going to -- for us to be like for like here, we
9 would say identification of this was after the fact.
10 So is that what -- you want me to answer that, or are
11 we talking about like if I found it in use or --

12 Q. Yeah, the identification after the fact on a
13 more long-term basis. Is there a procedural way to
14 deal with badly written -- seemingly badly written
15 work orders that can be interpreted different ways,
16 and, if so, what is that procedure?

17 A. If memory serves me, I believe the work order
18 planning, the one that you showed me in one of your
19 documents, talks about statements that are not --
20 that are misleading, that are not -- you know, that
21 are not correct when found and -- the short answer to
22 your question is, is you will go in, you will revise
23 it, you will fix it and make it in line with the
24 procedure, you will make it clear and concise to the
25 reader and the performer. And then also the CAT

1 process would have you -- "CAT" being corrective
2 action program -- would have you go back to all the
3 parties involved and coach them.

4 So the planner, you would go to the planner
5 and you would coach the planner and say, hey, you
6 know, you planned this, but you didn't meet these
7 criterias to meet a work step or a note, or whatever
8 your intent was. You didn't meet it. Here's what
9 was identified. And here's how you fix it in the
10 future.

11 So now you fixed it with the individual; now
12 we fixed it with the work document, and the last
13 piece is to provide the learnings. We don't -- in
14 human performance events like this, we don't just
15 coach the one person who did it, or who was caught in
16 the error trap. We coach everyone. And there was
17 some coaching provided to everyone, but then there
18 was more done to one person.

19 Q. All right. The last page that I will have
20 you look at, sir, in this document that's identified
21 as Exhibit 72, is Bates number 3638.

22 A. I'm almost there. All right. I've got to
23 change my rotation again. 3638, I'm looking at --
24 yeah, 3638. Attachment H or hotel?

25 Q. Correct.

1 A. It's the housekeeping log.

2 Q. So tell me what the purpose of the
3 housekeeping log is.

4 A. The housekeeping log is a daily signature of
5 the supervisor, and that supervisor can be
6 multiple --

7 (Interruption in proceedings.)

8 THE WITNESS: If you don't mind,
9 someone's trying to open this door. Can I tell them
10 I'm in here?

11 MR. JOHNSON: Yes, sir.

12 MR. LANTIS: Jim, while he's doing that,
13 after this question or the next couple of questions,
14 I need to take probably a ten-minute break.

15 MR. JOHNSON: Yeah, that'll be fine. I
16 am approaching the end. I don't think we'll be more
17 than another 15 minutes or so.

18 MR. LANTIS: Yeah, I'm going to need to
19 take a break before then. And the reason why is my
20 Mom's here, and I've got to get her in an Uber to the
21 airport because she's got to leave and she doesn't
22 have Uber. So I can't wait 15 minutes. I literally
23 need a break in about two-minutes.

24 MR. JOHNSON: Okay. We'll just have him
25 answer this question and we'll be off of this

1 document except for I've got one more question after
2 this, and then I'll be off of this document and we'll
3 have about 15 minutes left. So, yeah, we can take a
4 break.

5 MR. LANTIS: Okay, great.

6 THE WITNESS: That record to answer your
7 question what is it, it is for a foreman, general
8 foreman or a supervisor, one of those levels,
9 whoever's assigned the task, to sign off that they
10 have performed housekeeping at the end of their shift
11 and the area's being kept clean and safe.

12 BY MR. JOHNSON:

13 Q. All right. And so from looking at this
14 document, can you identify what shift Mr. Johnson,
15 the field engineer, was on through -- well, from
16 September 19th of '18 till October 9th of '18?

17 A. First shift or day shift.

18 Q. All right. And would September 19th of '18
19 to October 9th of '18 be just about the entire outage
20 as related to the ice condensers?

21 A. Yes, I would think it would be.

22 Q. All right. And so Mr. Johnson, according to
23 your testimony, was on day shift and, yet, I think as
24 you previously testified, he was making work
25 performance signatures for night shift also; correct?

1 MR. LANTIS: Objection to form.

2 THE WITNESS: That is what is in the
3 document. Did you hear my answer, ma'am? I
4 apologize. I overspoke.

5 THE REPORTER: Yes, I did hear your
6 answer. Thank you.

7 THE WITNESS: Okay.

8 MR. JOHNSON: What was the answer you
9 got?

10 (The answer was read back by the
11 reporter.)

12 MR. JOHNSON: I have one more question
13 and we're completely off of this. I don't think it
14 will take long. But if you need to go, I can hold it
15 until after.

16 MR. LANTIS: I mean, if it's literally
17 one more question and not one question followed by
18 seven follow-ups then, yeah, I'm okay.

19 MR. JOHNSON: Okay.

20 BY MR. JOHNSON:

21 Q. So with regard to this signature log, and
22 also Mr. Terry signing the Attachment 10 bay
23 restoration as field engineer/supervisor that you've
24 testified to, again my question is, would those
25 likely have been things that would have been

1 discovered in a reasonable investigation of the ice
2 bay doors being on the wrong doors?

3 MR. LANTIS: Objection to form.

4 THE WITNESS: Yes, sir.

5 BY MR. JOHNSON:

6 Q. And the answer was "yes, sir," I think. Am I
7 correct?

8 A. It was.

9 MR. JOHNSON: Okay. All right. Let's
10 take a break. How much time do you need, Paul?
11 Well, he's gone.

12 MR. BERNIER: He said ten earlier.

13 MR. JOHNSON: Okay. Ten minutes. So
14 that's exactly noon. And then I'll be, as I say, I
15 think only about 15 minutes from wrapping up.

16 MR. BERNIER: Okay.

17 MR. JOHNSON: So we're off the record
18 until noon. Are you on Eastern time, sir?

19 THE WITNESS: Yes, sir. That's fine.

20 MR. JOHNSON: Off the record till noon.

21 THE WITNESS: Okay.

22 MR. JOHNSON: Thank you.

23 (Short break.)

24 MR. JOHNSON: Are we ready to begin?

25 MR. LANTIS: Yeah.

1 MR. BERNIER: Yes.

2 MR. JOHNSON: Let's go back on the record
3 then.

4 BY MR. JOHNSON:

5 Q. Mr. Whitehorn, I think we're done with the
6 documents, and so just need to ask you some more
7 questions. And the first one of those is, during the
8 period after Mr. Goforth took over for you as the TVA
9 augmentee over -- in the tritium program, that is
10 around 2017 and into 2018, did you make any
11 complaints of your own about being retaliated against
12 for protected activity?

13 A. Yes, sir, I did.

14 Q. And can you tell me what you said was your
15 protected activity you were being retaliated for?

16 A. My involvement with the tritium consolidation
17 project, specifically the bending of a thimble tube
18 while on a irradiated TPBAR hub pull of TPBARs.
19 Additionally, with performing the investigation and
20 being a part of that, and also testifying to ECP.
21 And the final piece of that, is basically my entire
22 involvement in that. My help with Mr. Goforth in his
23 writing of his assessment, the self-assessment, if
24 you will, of the campaign. All those different
25 variables.

1 Q. Okay. And who were you making that complaint
2 against as being a person or entity retaliating
3 against you?

4 A. Because anything beyond this would be
5 conjecture and I didn't make conjecture, I did it
6 against my boss, John Rhodes, because he's the one
7 that gave me the poor performance review.

8 Q. So was the poor performance review which you
9 were saying was an adverse employment action against
10 you that you were being retaliated for?

11 A. Yes, sir, that is correct. And that is in
12 accordance with the procedure that governs adverse
13 actions.

14 Q. And was your complaint resolved?

15 A. It was.

16 Q. And how was it resolved?

17 A. Through an agreement with me and TVA.

18 Q. Okay. And as a result of that agreement, was
19 your performance evaluation changed?

20 MR. BERNIER: I'm going to object there,
21 Jim. You know, first I think this is off the beaten
22 path, but also we're talking about a settlement
23 agreement at this point.

24 MR. JOHNSON: Okay. I didn't know that.
25 Is that like an NDA on that?

1 MR. BERNIER: There is a confidentiality
2 provision.

3 MR. JOHNSON: Okay. All right. Well, I
4 think most confidentiality provisions have an
5 exception for testimony in a legal proceeding, but I
6 don't think -- I won't push on that because I think
7 he's already said what his protected activity was.
8 That was it was resolved and what the adverse action
9 was. So I'm willing to move on from there.

10 MR. BERNIER: Okay.

11 BY MR. JOHNSON:

12 Q. So breaking down what you just told me about
13 your protected activity, when you say a bent thimble,
14 are you referring to -- and I can tell you the
15 June 22nd drop of a TPBAR assembly that bent a
16 thimble, June 22, 2017?

17 MR. BERNIER: Objection to form.

18 THE WITNESS: Without having dates in
19 front of me, that sounds to be an accurate statement,
20 but I don't have it in front of me. So that sounds
21 like the right time frame.

22 BY MR. JOHNSON:

23 Q. All right. Well, maybe this will help. Was
24 there a video made of that event?

25 A. There was.

1 Q. And tell me how widely, if at all, that video
2 was circulated within Watts Bar?

3 MR. LANTIS: Objection to form.

4 THE WITNESS: I'll be honest with you,
5 Jim, here's why I can't answer that. Because I do
6 not know who all Jeff McGuire sent it to. He may
7 have sent it to a lot of people. He may not have
8 sent it to very many people. I can't answer that.
9 McGuire could.

10 But I do know that at least myself and
11 Steve Cook had seen the video. Those are the only
12 two that I know for certain that I can say saw that
13 video. Outside of that, it could have been sent to a
14 lot of people.

15 BY MR. JOHNSON:

16 Q. Well, was either the video or the event
17 itself -- well, let me take the video out of it
18 because you said you don't know. Was the event
19 itself used for training purposes at least within the
20 TVA MMG and the Watts Bar -- or, I mean, the DZ
21 augmented employees --

22 MR. LANTIS: Objection to form.

23 MR. BERNIER: Objection to form.

24 BY MR. JOHNSON:

25 Q. -- who worked on tritium?

1 A. You said was it used as training. I mean,
2 the only way I could say that -- yes, it's OE now.
3 It's operating experience. And every time a campaign
4 is done, you go over your operating experience and
5 make sure that you learn from your mistakes and you
6 don't make them again.

7 Q. And so did you actually see the evaluation
8 that Mr. Goforth wrote about the cycle 14 that
9 included this incident?

10 A. Yes, sir.

11 Q. And who else do you know that saw that
12 evaluation, if anyone?

13 MR. BERNIER: Objection to form.

14 THE WITNESS: So the only -- to answer
15 your question, the only person that I know for
16 certain that saw it would be Steve Cook. Outside of
17 that, I know McGuire. Obviously McGuire saw it. Who
18 all saw it outside of that, I mean, I heard, you
19 know, rumblings. Because you're asking me a very
20 specific question. Who did I know saw it?

21 I never saw Jesse James read it. I never
22 saw anyone above that. I don't know if Paul Simmons
23 might have gotten a copy of this. I do also know
24 that ECP had a copy of it. I do not remember that
25 gentleman's name. He was a corporate ECP

1 investigator, and he had a copy of it. And that's
2 the only people that I know for certain had a copy.

3 BY MR. JOHNSON:

4 Q. Would the ECP investigator be Howard Cusick?

5 A. That would be him.

6 Q. Do you know whether Mr. Cusick wrote a CPR --
7 I'm sorry -- a CR that incorporated the gaps found in
8 the evaluation?

9 A. Yes, sir, he did.

10 Q. And so tell me -- well, let me do it this
11 way. Let me just give you some names, and I want you
12 to tell me whether or not you had any discussions
13 with any of these people about either the Cusick CR
14 or the evaluation that Mr. Goforth wrote.

15 So the first name I'm going to give you is
16 Tony White.

17 A. No, sir.

18 Q. Dusty Rhodes?

19 A. I believe we may have had some dialogue about
20 it throughout the course of the process that you
21 previously mentioned.

22 Q. In your prior testimony you mentioned there
23 was talk going around. So that's the kind of thing
24 I'm talking about is, did you -- with any of these
25 people, did you hear them talk about either the

1 evaluation or the Cusick CR?

2 So with that in mind, let me give you Tony
3 White again. Same answer, or does that change your
4 answer any?

5 MR. LANTIS: Objection to form.

6 MR. BERNIER: Objection to form.

7 THE WITNESS: So did I hear people talk
8 of it? Yes, I did hear someone make reference that
9 there was a conversation about this report.

10 BY MR. JOHNSON:

11 Q. And --

12 A. Go ahead.

13 Q. And who did you hear that from?

14 A. Jeff McGuire.

15 Q. And who did Jeff McGuire say that he had had
16 a discussion about it with?

17 A. Tony White.

18 Q. Okay. How about DeWarren Washington?

19 MR. BERNIER: Jim, what's the question
20 about DeWarren here?

21 MR. JOHNSON: Yeah, the question is, did
22 he ever discuss this with DeWarren Washington; that
23 is. The evaluation or the Cusick CR. Let's limit it
24 to that.

25 //

1 BY MR. JOHNSON:

2 Q. Did you ever discuss or have any conversation
3 with DeWarren Washington about either the evaluation
4 or the Cusick CR?

5 A. No, sir.

6 Q. Did you ever hear of anyone else having a
7 discussion of the -- about the -- or conversation
8 about the evaluation or the Cusick CR with
9 Mr. Washington?

10 MR. BERNIER: Objection to form.

11 THE WITNESS: I did hear that there were
12 management -- maybe not an official meeting -- I
13 heard that there were discussions that were held over
14 it and talked about it. This particular -- with
15 Mr. Washington, none of it would have been official.
16 It would have just been them providing him with
17 information of what they heard. And I did hear that
18 he was involved in some of those conversations, but
19 to the validity of it, I have no idea.

20 BY MR. JOHNSON:

21 Q. So who did you hear from that these
22 conversations had occurred? How did they come to
23 your attention? From whom?

24 MR. BERNIER: Objection to form.

25 THE WITNESS: Jim, I'm going to tell you,

1 I don't remember. I apologize. I don't remember
2 that.

3 BY MR. JOHNSON:

4 Q. All right. Do you know who Meshelle Augustin
5 is?

6 A. I do.

7 Q. And who do you recall her being at the time
8 of your complaint?

9 A. She was the HR manager.

10 Q. For who?

11 A. TVA.

12 Q. And what information, if any, did you give to
13 Ms. Augustin about your protected activity?

14 A. I gave her everything.

15 MR. BERNIER: Objection to form.

16 BY MR. JOHNSON:

17 Q. I'm sorry?

18 A. I gave her everything. "Everything" being I
19 sat down with her. I requested a meeting with her.
20 After the notification was made to me by my boss
21 through the end-of-year performance review that I was
22 going to be given a below satisfactory rating, I
23 requested a meeting with her through e-mail,
24 formally. I believe the title I put on it was, "This
25 is a formal request for a meeting." I made it

1 official so that she knew what it was about.

2 We then had a subsequent meeting sometime
3 after that, I don't remember, but I had time to put
4 together everything for her that she needed to see,
5 and part of that was the evaluation.

6 Q. Did you give her the actual evaluation that
7 Mr. Goforth had performed?

8 A. I can't remember if I e-mailed all of it to
9 her or not. I want to think I did, but I can't say
10 for certain that I did. I do know I had it all in my
11 hand when I came in. I had my files. And I came in,
12 and I had everything there to discuss.

13 I want to say that just so this doesn't
14 sound -- you know, because we're really picking a
15 piece out of something that probably makes me sound
16 bad -- but, you know, there was a whole huge
17 backstory to this -- this issue with me at hand.
18 And, you know, when we're grabbing these little
19 pieces I sound like a disgruntled employee or
20 something who got a bad evaluation, but that was
21 actually nowhere near the case. I had exemplary
22 evaluations all the way up to that nine days before
23 the end of the fiscal -- yeah, the fiscal year. I
24 had an exemplary report from John Rhodes. So that is
25 why this all led to this.

1 So there's a lot more to it than that, but
2 all that information, in file form and written form,
3 so that I could get a timeline so that I could
4 explain my side of this, was with me and discussed
5 with her in that meeting.

6 She took notes on her iPad, and I remember
7 that specifically just because she was the first
8 person I saw actually using a writing pen, if you
9 will. Not an actual pen, but the new pens on an
10 iPad. That just stood out in my mind.

11 I can't remember if I sent her everything; if
12 she asked me if I had it in an e-mail form. It does
13 seem like she may have asked that, but I can't
14 remember specifically. But I know I went through
15 everything and I talked about it because it was
16 specific to why I felt like I was being retaliated
17 against.

18 Q. So you said you couldn't remember whether you
19 e-mailed her a copy of the evaluation, but you said
20 you brought the evaluation in a file with you.

21 Did you give her the evaluation as a hard
22 copy at that meeting?

23 A. I did not let her have any of my files
24 because I had not made copies of any of it. It was
25 just we talked about it, we looked at it, and

1 discussed it.

2 Q. What specific recall, if any, do you have
3 whether you specifically mentioned Mr. Goforth's
4 evaluation in your conversation with Ms. Augustin
5 that day?

6 MR. LANTIS: Objection to form.

7 MR. BERNIER: Objection to form.

8 THE WITNESS: It would have just been in
9 the timeline of events that happened. We would have
10 talked about it and I would have just said that this
11 was a document that was written discussing the
12 deficiencies noted in the campaign. Specifically,
13 the nuclear safety concern that we've already
14 discussed with the bent thimble tube.

15 And I would have just walked through the
16 timeline with it. She would have known that --
17 actually, you know what, I'm also positive I said
18 that this was written by Mr. Goforth and I helped him
19 to write it, and I told her how I was involved with
20 it.

21 BY MR. JOHNSON:

22 Q. Among the documents that you brought with you
23 to that meeting, was the Cusick CR that we've talked
24 about part of the documents that you brought with
25 you?

1 A. I don't remember, sir.

2 MR. BERNIER: Objection to form.

3 THE WITNESS: I don't remember if I had
4 that with me at the time.

5 BY MR. JOHNSON:

6 Q. Do you recall whether you mentioned the
7 Cusick CR to Ms. Augustin as part of your
8 conversation with her?

9 A. I don't recall. And the only reason why I
10 say that, it probably would not have stood out to me
11 as something for us to talk about because I was more
12 engaged in the timeline of what had transpired.

13 Q. Do you know of your own personal knowledge of
14 any other employees who filed complaints of
15 retaliation for protected activity at approximately
16 the time that you filed your complaint?

17 MR. BERNIER: Objection to form.

18 THE WITNESS: Are you referring to the
19 chilled work environment at Watts Bar?

20 BY MR. JOHNSON:

21 Q. No, sir. What I'm asking is, your testimony
22 has been that you made a complaint in the 2017/2018
23 time range about retaliation for protected activity.

24 My question is, do you know others who made
25 complaints that they suffered adverse employment

1 action for protected activity during that same time
2 frame?

3 A. Yes, sir, I do know.

4 MR. BERNIER: Objection to form.

5 THE WITNESS: A peer of mine in my
6 department, Shane Benoit, also --

7 THE REPORTER: Say that name again, sir.

8 THE WITNESS: Shane Benoit.

9 BY MR. JOHNSON:

10 Q. Tell me if I'm spelling it right because I
11 don't know. I've not heard of this person, but I'm
12 from New Orleans and it sounds like it's a
13 B-E-N-O-I-T name. Is that --

14 A. He is from New Orleans.

15 BY MR. JOHNSON:

16 Q. Okay.

17 A. Do you want me to look that up to confirm?

18 Q. No, sir, that's good enough. Do you know
19 whether or not that complaint was ever resolved?

20 A. It was resolved.

21 MR. BERNIER: Objection to form.

22 BY MR. JOHNSON:

23 Q. And when was your complaint resolved?

24 A. I don't remember the date, sir.

25 Q. Would it have been in 2018?

1 A. Without having it in front of me, I
2 apologize, I don't remember when it was done. It
3 went on for a fair amount of time, and I don't
4 remember the exact on when the date was.

5 Q. Well, we know it would have to have been
6 after June of 2017 when the -- well, let's see. We
7 know it would have had to have been after
8 October 17th of 2017 because that's when Mr. Goforth
9 issued the evaluation. Does that sound right?

10 A. Yes, sir.

11 Q. And do you recall approximately how much time
12 it took for the issue to be resolved from the time
13 you made your complaint?

14 A. If memory serves it was nine months to a
15 year, something like that.

16 Q. Okay. Thank you. And anyone else besides
17 Shane Benoit that you can recall that are responsive
18 to the question that I asked you about others who
19 filed complaints for protected activity, retaliation,
20 at about the time of yours?

21 A. He's the only one that I can think of.

22 Q. Do you know if Mr. Shane Benoit's complaint
23 involved this protected activity being involved with
24 either Mr. Goforth's evaluation or the Cusick CR?

25 MR. BERNIER: Objection to form.

1 A. Freddie Gibson. Yes, sir, that's correct.

2 Q. Okay. Any other information, or have you
3 told me all information you would know that -- or
4 that you know about, that Mr. Washington may have
5 known about this litigation of Mr. Goforth's?

6 MR. BERNIER: Objection to form.

7 THE WITNESS: Yes, sir, that would be
8 correct. All that I can remember.

9 BY MR. JOHNSON:

10 Q. I have one last question for you,
11 Mr. Whitehorn, and that is this. As we sit here
12 today, are you concerned about retaliation from
13 anyone in TVA management for your testimony today?

14 MR. BERNIER: Object to form.

15 THE WITNESS: I can't -- with someone who
16 has been through this and seen what I've seen, I
17 can't sit here and answer that and say no with a
18 hundred percent. Yes, there is a side of me that is
19 always worried about standing up and telling the
20 truth, and when you see wrongdoing, telling what
21 you've seen and what you feel. And I'm going to try
22 to move forward with this and sleep at night knowing
23 that, you know, the people that I've talked with here
24 seem to be good people, I think they're honest
25 people. I've been told that, you know, it's not

1 going to be discussed, nobody else is going to be
2 talking about it, and I'm going to hope that that's
3 true and move on.

4 But, yes, there is a part of me that's
5 always worried about this because it ties directly
6 back to the things that I've already spoke about
7 and -- so, anyway, yeah.

8 BY MR. JOHNSON:

9 Q. And let me just expand that question one
10 time. Sorry. I lied to you about the last question.
11 I just need to expand on that a little bit.

12 Are you worried about retaliation of any sort
13 from anyone at Day & Zimmermann as a result of your
14 testimony today?

15 A. No, sir. I don't work for Day & Zimmermann,
16 so I don't have any fear of that.

17 MR. JOHNSON: Mr. Whitehorn, that's all
18 my questions for you for today. I appreciate your
19 attending, and counsel for the other parties may have
20 some questions for you at this time.

21 THE WITNESS: Okay. Thank you, Jim.

22 MR. LANTIS: Mr. Whitehorn, I do have a
23 number of questions for you. I'm going to ask,
24 though, that we take about a five- to seven-minute
25 break to allow me to sort of -- I want to be

1 ready, sir.

2 EXAMINATION

3 BY MR. JOHNSON:

4 Q. All right. I'm looking, Mr. Whitehorn, now
5 at the ice condenser work order, which is Exhibit --
6 it's the ice condenser work order, and I'm looking at
7 Page 3523, which was a page that Mr. Lantis examined
8 Mr. Whitehorn on. It says at the top, "Servicing ice
9 condenser." Is everybody with me?

10 So if you look, please, sir, at the work
11 steps in this -- on this page, all of those work
12 steps are in capital letters; are they not?

13 A. Yes, sir, they are.

14 Q. All of those work steps are in bold print;
15 are they not?

16 A. Yes, sir, they are.

17 Q. All of those work steps begin with an action
18 verb; do they not?

19 A. Yes, sir, they do.

20 Q. So this would be seemingly, with respect to
21 all of those qualities regarding actual work steps, a
22 properly written work order?

23 A. That's correct.

24 Q. Can you distinguish between this properly
25 written order and the poorly written work order, as

1 you've described it, that Mr. Goforth signed that he
2 was terminated for with respect to those items
3 indicating work steps?

4 MR. BERNIER: Objection to form.

5 THE WITNESS: Yeah, I --

6 BY MR. JOHNSON:

7 Q. Well, let me -- I can make it easier for you.
8 Did the work -- did the elements under the
9 word note begin with capitalized, bold-printed action
10 verbs?

11 A. What document was that, sir?

12 Q. That was Document 5. I'm sorry. That was
13 Document 1, which is also Exhibit 27. And you'll
14 need to go to the last page of it. When you get to
15 the last page of the work order where Mr. Goforth put
16 his signature, you can let me know.

17 A. Okay, I'm there, sir. Please restate your
18 question. I just wanted to have it here in front of
19 me. Go ahead.

20 Q. Sure. Are there any sentences that begin
21 with -- under the word "note" with an action verb
22 that is capitalized and in bold print?

23 A. No, sir.

24 Q. And is capitalizing in bold print and
25 beginning with an action verb a requirement of the

1 work management planning procedures that you looked
2 at earlier in your testimony as Document Number 2?

3 MR. LANTIS: Objection to form.

4 THE WITNESS: Yes, sir.

5 BY MR. JOHNSON:

6 Q. What was the answer, please?

7 A. Yes, sir, it is.

8 Q. All right. Thank you. Now, also in your
9 testimony by Mr. Lantis you were saying that one
10 problem with the work order that we were looking at
11 that Mr. Goforth signed is that it didn't require ten
12 signatures for each manway cover, as did the removal
13 of the manways and the FAC inspection.

14 You did so testify; is that correct?

15 A. Yes, sir, I did.

16 Q. And do you know whether or not, based on your
17 experience there in managing these work orders, that
18 this work order that's Document 1 was amended after
19 Mr. Goforth's termination to require ten signatures,
20 one for each manway cover reinstallation?

21 A. That is correct, sir.

22 Q. And in response to Mr. Goforth's question --
23 or I'm sorry -- Mr. Lantis' question regarding about
24 when you made your complaint about being retaliated
25 against for protected activity, do you recall saying

1 earlier in your testimony that it was between
2 October 2017, when Mr. Goforth wrote his evaluation,
3 and the nine months to one year that it took before
4 your situation was resolved?

5 A. That sounds correct.

6 Q. We talked some and -- or you-all talked some
7 when you were visited with by Mr. Lantis about texts
8 between you and Mr. Goforth.

9 Were there a lot of exchanges of texts
10 between yourself and TVA management employees as a
11 matter of routine work?

12 A. Yes, sir.

13 Q. And so, for example, would you have texted
14 with Tony White?

15 A. Probably not on that, but when he was in his
16 previous role as my boss, we'd text quite often.

17 Q. All right. And you were in your previous
18 role where he was your boss from March of 2018 until
19 you got your new job after Mr. Goforth was
20 terminated?

21 A. No, sir. Mr. White was the MODS manager in
22 2010, and stayed for approximately three years in
23 that role. And then he left for about a year when he
24 went to cert class. And then Jeff -- it may have
25 been a little longer than a year -- Jeff Swanson came

1 in, was my boss for a while.

2 And then Tony ended up taking back that role
3 as my boss after Jeff Swanson. And then served in
4 that role for another year, some time frame around
5 that, and then he went on to move to QA and
6 progressed his way to where he is now as the
7 maintenance director.

8 Q. Okay. So what period of time are we talking
9 about when you were frequently texting with him, as
10 you testified, when he was your boss?

11 A. When he was my boss, that would have been for
12 the first three years of my employment, and then
13 whenever he was my boss the second time, which was a
14 year or two years after that, once Mr. Swanson left.
15 Any person -- so maybe this is easier. Any person
16 who's my boss, we were texting. That's the favorite
17 way of communication is texting.

18 Q. Is that the favored way of a communication
19 amongst TVA management employees generally within
20 maintenance?

21 MR. BERNIER: Objection to form.

22 THE WITNESS: Yes, sir. That and
23 e-mails.

24 BY MR. JOHNSON:

25 Q. All right. And is -- how about did you have

1 a frequency of texting with Mr. Washington --
2 Mr. Washington?

3 A. When he was my boss, yes, sir.

4 Q. Okay. And what period of time would that
5 have been?

6 A. I believe he was the manager in the '16 to
7 '17 time frame.

8 Q. Okay. And how about in 2018 during the
9 outage, were you texting with Mr. Washington, if you
10 can recall?

11 A. I mean, I'm sure I did. I'm sure I had some
12 form of texting to him, asking him something or
13 telling him something or, you know, again, just
14 general work-related things.

15 Q. Was texting a frequent means of communication
16 between or among -- between or among DZ and TVA
17 employees?

18 MR. LANTIS: Objection to form.

19 MR. BERNIER: Objection to form.

20 THE WITNESS: Yes.

21 BY MR. JOHNSON:

22 Q. And we're talking about during the period
23 2017 and 2018?

24 A. Yes, sir.

25 Q. Let's look again back -- I think we were on

1 Page 3523. Let's advance up to Page 3635 in the ice
2 condenser work order.

3 A. 3635. All right, Jim, I'm looking at -- it
4 looks like a component status sheet. What's clearly
5 marked here is at the bottom of it is TVA Form Number
6 40739.

7 Q. Correct. You're at the right page. It says,
8 "Responsible organization MODS requested by Scott
9 Terry," at the top right of the document.

10 A. That is correct, sir.

11 Q. All right. You were asked a lot of questions
12 by Mr. Lantis, and then a few questions also on the
13 topic by Mr. Bernier, about the appropriateness of
14 signing by Mr. Johnson. I want you to take a look at
15 where Mr. Johnson's initials appear on this document.

16 But before we do that, tell me what this
17 document is. What are people saying by putting their
18 initials on this document?

19 A. So a component status sheet is a way that we
20 track the configuration of the plant. When you go
21 out to manipulate a valve -- in this particular case,
22 like the very first one's a manualized flow line
23 valve, you would document the as found condition. If
24 it's in a closed position, an open position, whatever
25 it is, because that's the way the plant wants it to

1 be and where it needs to be.

2 But for some other reason, whether it be
3 procedural or work order based, what have you, we
4 need to go out there and change that configuration
5 for a period of time. How we track that is by one of
6 these, a component status sheet. So as you can see
7 on Line 1 they did an as found of closed. They
8 changed it to an open position, and then returned it
9 at the completion of the work to a closed position.
10 That's what this document does.

11 Q. Okay. And is this the person who is signing
12 off for that where the initials are, that's supposed
13 to be the person who's actually performing that
14 operation of opening or closing?

15 A. I would think so, but, you know, I -- I can't
16 think of a procedure right off base that tells me --
17 I mean, I'd have to go back and look and see if the
18 maintenance instruction tells that. But, again, I
19 would think that the person doing the job should be
20 the one doing the signing.

21 Q. All right. We'll, let's look at the
22 signoffs. It looks to me like there are two signoffs
23 in all of those signoff blocks. There's RTJ, and
24 then there are other people's initials. And so it
25 looks to me, and I'm not a handwriting expert, but it

1 appears to me that the handwriting on both sets of
2 initials in each of those blocks is done by one
3 person, and seemingly Mr. Johnson.

4 Is that the way it looks to you?

5 A. So I'm going to say the same thing that you
6 did. That I am not a handwriting expert, nor do I
7 claim to be, but, yes, sir, based off of looking at
8 it, it does look like the same person did write
9 everything. And I'm making that determination more
10 solely based off of the J that's down here on the JD.
11 It's an identical match for the J that is on the end
12 of Mr. RTJ's initials.

13 Q. All right. What rules, if any, are there at
14 TVA on work orders of this nature for signing someone
15 else's initials? Is that appropriate without
16 indicating that that's what you're doing? Like
17 attributing --

18 MR. BERNIER: Objection to form.

19 BY MR. JOHNSON:

20 Q. -- that you have permission -- you know,
21 indicating in person there that you have authority?

22 A. So as you stated, the only way that I know
23 that that can be done is if you are granted
24 permission by the individual, whether it be through
25 telephone, e-mail, text message, something of that

1 nature. You can then sign it, as we refer to, per
2 Telecom or per whatever, you write out there.

3 And normally what you would see is an
4 asterisk, and then there would be an asterisk down at
5 the bottom to say what that is, you know, what that
6 asterisk is. And then, Hey, per Telecom, I'm signing
7 this person's initials, and then you would put it.

8 I do not know of any allowance to -- well,
9 with the exception of recreating a work order that
10 was lost, you might find something like that if you
11 were going back in and you knew who did the
12 installations just so that you could track the person
13 who did it, but not in this respect. I don't know of
14 any allowance to allow that.

15 Q. So is that something that we just discussed
16 likely to have been noticed in an investigation
17 conducted in the same manner as an investigation
18 conducted by -- in Mr. Goforth's case?

19 MR. LANTIS: Objection to form.

20 MR. BERNIER: Objection to form.

21 THE WITNESS: It is very plausible.

22 MR. JOHNSON: That's all the questions I
23 have.

24 MR. BERNIER: Nothing further here.

25 MR. LANTIS: Nothing further.

REPORTER'S CERTIFICATE

STATE OF TENNESSEE

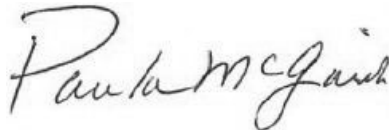
COUNTY OF HAMILTON

I, PAULA MCGUIRK, RPR, LCR#789, CCR-GA, in and for the State of Tennessee, do hereby certify that the deposition of GREGORY R. WHITEHORN was reported by me, and that the foregoing 214 pages of the transcript is a true and accurate record to the best of my knowledge, skills and ability.

I further certify that I am not related to nor an employee of counsel or any of the parties to the action, nor am I in any way financially interested in the outcome of this case.

I further certify that I am duly licensed by the Tennessee Board of Court Reporting, as evidenced by the LCR number and expiration date following my name below.


In witness whereof, I have hereunto set my hand this 13th day of October, 2021.



PAULA MCGUIRK, RPR, LCR, CCR-GA
LCR#789 - Expires: 6/30/2022

Resume

Robert M. Goforth


Personal Cell
Work Cell
rmgoforth0@tva.gov
bob_bo43@yahoo.com

PROFESSIONAL QUALIFICATIONS:

Over 20+yrs of experience providing leadership, supervision and management in nuclear and fossil fuel industries. Employed as a augmented TVA Task Manager, Mechanical Superintendent, Scheduler, Construction Coordinator, Field Engineer, and Work Package Planner with a reputation of providing quality craftsmanship, while maintaining a nuclear safety culture along with schedule adherence. Responsible for managing or supervising multi-craft disciplines ranging from 10 to 200 personnel. Out of the 20+ years of Power Utility Experience, over 10 years has been in the ever changing Nuclear Industry.

Personal: The experience gained in past projects working with some of the best personnel in the industry who took the time over the years to be teachers, has taught me to have an extremely wide range of project management, supervision, effective communication, well rounded skills that allows me to effectively deliver a safe work environment while meeting and obtaining assigned schedule workload goals. The experience gained allowed me to become well rounded in all aspects of new construction and/or operating units.

EXPERIENCE:

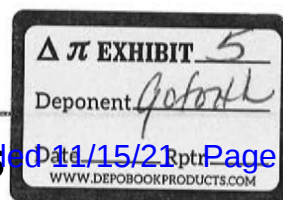
Nov 2016 to Nov 2018 Augmented TVA/ Watts Bar -Tritium Consolidation and Shipping Task MGR.

Assigned as the on-sight representative Task Manager for Tritium Consolidation and Shipping representing the TVA Tritium Program Managers and the DOE Tritium Sustainment Group. Responsibilities include all scheduling, coordination of Refuel Floor during Tritium activities and oversight that all procedural requirements are met during consolidation of Tritium Producing Burnable Absorbing Rods to include all scheduling of individual shipments that would be considered as a need to know basis.

Nov 2015 to Nov 2016 Day & Zimmermann TVA/Watts Bar- Field Engineer

Assigned as the only Mechanical Field Engineer/Design for the Tritium Consolidation Cycle 13. The Main duties is to prepare all permits, prepare schedule and to set forth TVA procedures that are to be followed during all evolutions associated with TVA MODS/Maintenance projects.

2013 to Nov.2015 Work Management Inc. TVA/Watts Bar U#2- Senior Completions Coordinator
Assigned as the Senior Mechanical Coordinator/Scheduler/Supervisor for the Construction Completions group for the Unit#2 project. Was charged with coordinating all mechanical scheduled work events which were left unfinished during the construction phase and are turned over systems. Was also a 3yr member of the 5 person Review Group where new work orders are either approved or disapproved. Also acted and was qualified as a mechanical field engineer/planner/QRV/IQR/VT-2 certified and assist all disciplines in their individual fields. Was a team member that assisted the Unit#2 project to be able to load



fuel.

2012 to 2013-

SUN-TECH/WATTS BAR Unit#2-- Turbine Building Superintendent

Turbine Building Mechanical Superintendent:

Was assigned as the Turbine Building Mechanical Superintendent responsible for the boilermakers, millwrights, iron workers, and vendors assigned to perform work in the Turbine Bldg. As part of my responsibilities, I was assigned as the FME coordinator for unit#2 and also the Lead Housekeeping Supt. responsible for the Turbine Building. Some of the other achievements included:

- Nominated for Contract Employee of the year for 2012.
- Assigned to take over all BOP projects for the last several outages on unit#1 by the MODS manager
- Completed assigned turbine building scope ahead of schedule
- Completed 70+ work orders assigned to me including a 98.5% acceptance rate for work package closure.
- All jobs assigned started on time or ahead of schedule and completed on time IAW the schedule.

2010 to 2012- Day & Zimmermann Watts Bar #2 Mechanical Supt. Turbine Bldg.

Assigned to the Turbine Building, supervising boilermakers, iron workers, millwrights and vendors.

Accomplishments included:

- Helped coordinate the milestone of filling up the Main Condenser, a round the clock 3 week event
- Completed all assigned work ahead of schedule which was documented and noted with TVA Management.
- De-mobilizing Superintendents from D & Z was asked to stay and continue to be a part of the project.

2009 to 2010- Bechtel Corporation, Lively Grove power plant, Lively Grove Illinois-

Assigned as the Heat Stress Superintendent for both new Units 1 & 2. Supervised (4) Boilermaker crews where all heat stress applications were completed from start to finish. There were no individual accomplishments but many team accomplishments.

2007 to 2009- Alberici Constructors, Ameren Energy Coffeen Illinois

Project General Superintendent on the new construction scrubber project supervising over 200 multi-craft personnel. Also assigned as the procurement manager for the new scrubber project and outage superintendent during the scheduled outages for Alberici. Was the main oversight for fabrication of all duct work (most pieces weighed in excess of 20 ton, acted as critical lift coordinator, and was the supervisor on all tie-ins to the operating plant. The following is a partial list of achievements:

- Completed several critical lifts over 200 tons involving multiple cranes at once.
- Completed all 3 outages on time and ahead of schedule and under budget
- Completed the fabrication of all 80 pieces of duct work ahead of schedule with the smallest piece weighing 70,000lbs up to the largest piece weighing 200+ tons.
- Received 2 letters of Appreciation from Alberici Constructors and Ameren Energy for leadership.

From 2000 to 2007-

Worked either as a certified high pressure welder, foreman or General Foreman for local boilermaker union 454 at Watts Bar Nuclear Plant and Sequoyah on steam generator replacement, BOP, Refuel Floor, ICE and many scheduled outages. Worked at surrounding Southern Company power plants on either new construction projects or scheduled outages.

Military:

U.S Navy 1984 to 1993 AO2/E5

Received many awards including 2nd Honorable Discharge after ending my obligated service.

Awards & Medals include: Presidential Unit Citation, Armed forces expeditionary Medal (operation Earnest Will & Operation Desert Shield/ Desert Storm), Weapons Expert Medal, Battle "E" service Medal, Navy Expeditionary Medal, Continuous Sea Service Medal, National Defense medal (USS Constellation

Note: Can provide copy of DD-214 upon request.

Education/Training:

- Continuing Education in Construction Management
- OSHA 500 instructor
- American Welding Society (CWI) Certified Welding Inspector-2005
- Apprenticeship Graduate 1994- United Steel Workers- Millwright/Wheland Foundry
- Scaffold user instructor
- Aerial Lift instructor
- Steel erection & Rigging fundamentals instructor
- Fall Protection competent person
- Hazmat recognition, signs & systems
- Too many 4 to 8 Hr courses to list

TVA Certifications & Training:

- Certified Independent Qualified Reviewer (IQR)
- VT LEVEL II
- Certified Quality Related Verifier (QRV)
- Certified Confine Space Supervisor
- Certified Primary Authorized Employee (PAE)
- Work Order Navigation
- Employee Rights and Protection
- Certified Rigging Supervisor
- Certified High Torque Supervisor
- Certified Pressure Welder
- FME-Foreign Material Exclusion Supervisor
- Too many more to list but can provide copy

Computer Skills:

- Proficient in Microsoft (Word, Excel, Power Point)
- Highly proficient in MAXIMO/ obtained Maximo rights
- Can type 45+wpm
- Scheduling/ P6 & Prima Vera

References Available upon request.

COPY

2/10/11
Jey



Day & Zimmermann NPS®

We do what we say.

02/08/2011

Robert Goforth
8839 Hwy 58 South
Decatur TN 37322
Union Hall # 454 BM

Dear Robert Goforth,

On behalf of Day & Zimmermann NPS, I am pleased to offer you the position of **Mechanical Supervisor** at **TVA - Watts Bar Unit 1 Nuclear Power Stat in Spring City TN**. Your start date at this location will be on **02/28/2011** based on your acceptance of this agreement. We can make no commitment on the duration of this assignment since that depends on the needs of our client however, at this time we believe it will run through the spring 2011. Successful completion of all necessary screening measures per clients Fitness for Duty Program for access to this facility is required and is an explicit condition of employment.

Special Comments:

As a field hourly employee of Day & Zimmermann NPS, you will not be eligible for Day & Zimmermann benefits including holiday or vacation pay. In addition, while assigned to this job site, your union benefits will be paid per the BM National Funds Alumni Agreement.

In performance of these duties, we are pleased to offer you an hourly wage of \$46.00/ hour. If the scheduled project workweek exceeds 40 hours per week, you will be reimbursed for any hours over 40 on a time and one-half basis, if the overtime is approved in advance.

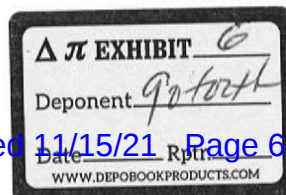
Due to the proximity of your permanent residence you will not receive TLA or travel expenses.

I understand and fully agree that my employment with Day & Zimmermann NPS is contingent upon successful completion of my background investigation and any training required. I also understand that my employment is conditional upon client approval of qualifications and staffing needs.

We understand that you are under no obligation to any current employer either to stay in their employment or refrain from accepting employment with a competitor. We recognize that you may be under obligation of confidentiality both with your current employer and your employer's customers and we fully expect and encourage you to honor those obligations.

Your employment is not governed by any written or oral contract and is considered an "at will" arrangement. This means that you are free, as is the company, to terminate the employment relationship at any time. As you may know, we are required to comply with the provisions of the immigration Reform and Control Act of 1986. When you report to work, **please bring your social security card and a valid driver's license**. If you do not have these documents you must contact me prior to employment to obtain a limited list of other acceptable documents.

The provisions above, together with your DZNPS Employee Orientation and work rules package, constitute the Terms and Conditions for this assignment. Terms are subject to revisions by customer.





Day & Zimmermann NPS

We do what we say.

Your signature below indicates acceptance of this agreement.

Date: 2-9-11

Employee Signature: _____

Robert A. Defatta

Please retain (1) copy for your records. Sign and return by post, email or fax the second copy to Day & Zimmermann NPS. This agreement will become effective when Day & Zimmermann NPS receives a signed copy from the applicant.

Thank You,

Jack Davis
Vice President, Staffing and Recruiting
Day & Zimmermann NPS
1827 Freedom Road Suite 101
Lancaster, PA 17601
717.391.3127 office
717.391.3212 fax



Day & Zimmermann NPS

We do it the way you want it.

This is to certify that I have received, read and understand the DZNPS Employee Orientation Book, Project Work Rules and Jobsite Safety Rules.

ROBERT M. GOFORTH
Name (please print)

85837
Employee Number

Robert M. Goforth 2/28/11
Signature Date

NOTE: Ensure that both the Employee and File Copies are signed.

FILE COPY

Letters of Policy / Programs
Attachment C
December 2010
Revision 8
Page 28 of 29

Δ π EXHIBIT 7	
Deponent	<u>Goforth</u>
Date	____ Rprr. _____
WWW.DEPOBOOKPRODUCTS.COM	



Day&Zimmermann NPS®

We do what we say.®

Letters of Policy & Program

This is to certify that I have received, read and understand the following:

- A. DZNPS Policy on Harassment
- B. Responsibility and Respect
- C. Equal Employment Opportunity / Affirmative Action
- D. Handicap Self-Identification Statement
- E. Invitation to all Handicapped Individuals, Disabled Veterans of the Vietnam Era
- F. Employee Concerns Policy
- G. Safety Conscious Work Environment
- H. Code of Ethics

Robert M. Goforth

Name (Please Print)

Robert M. Goforth

Signature

2-28-11

Date

Δ π EXHIBIT <u>8</u>
Deponent <u>Goforth</u>
Date _____ Rptr. _____
<small>WWW.DEPOBOOKPRODUCTS.COM</small>

Employee File Copy

Craft Employee Orientation Information & Work and Safety Rules



Approved by Walter Sanders, President, DZNPS

Effective: July 13, 2015

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Reporting Instances of Harassment: The Company strongly encourages the prompt reporting of all incidents of discriminatory harassment. If an employee believes he or she is being harassed or has observed harassment, the employee should notify promptly his or her direct supervisor or any supervisor or manager, including a site supervisor. Alternatively, employees may report their concerns directly to human resources or employees may report their concerns to the Ethics and Employee Advocate Helpline at <https://dayzim.alertline.com> or by calling 1.877.319.0270.

Investigation: When an employee reports harassment as specified above, the Company will undertake a prompt investigation appropriate to the circumstances. The steps to be taken during the investigation cannot be fixed in advance, but will vary depending upon the nature of the allegations. Confidentiality will be maintained throughout the investigative process to the extent practicable and consistent with the Company's need to undertake a full investigation.

Resolving the Matter: Upon completion of an investigation, appropriate remedial action will be taken if necessary and if supported by the facts. Remedial action may include verbal or written counseling, referral to formal counseling, disciplinary suspension or probation, or discharge from the Company.

Nonretaliation: An individual who reports incidents that the employee, in good faith, believes to be violations of this policy, or who is involved in the investigation of harassment, will not be subject to reprisal or retaliation. Retaliation is a serious violation of this policy and should be reported immediately. The report and investigation of allegations of retaliation will follow the procedures set forth in this policy. Any person found to have retaliated against an individual for reporting discriminatory harassment or participating in an investigation of allegations of such conduct will be subject to appropriate disciplinary action.

Communication: This policy is part of the Company's overall commitment to open communication. The Company encourages any employee with workplace concerns of any nature (including, but not limited to, any alleged discrimination) to bring those concerns to the attention of the direct manager.

WHISTLEBLOWER POLICY

A whistleblower is an employee who reports an activity that he/she reasonably believes to be illegal. The whistleblower is not responsible for investigating the activity or for determining fault or corrective measures; appropriate management officials are charged with these responsibilities. If an employee has knowledge of or a concern of illegal activity, the employee should report it to his/her direct supervisor or a manager, or to human resources. An employee, however, who intentionally files a false report of wrongdoing will be subject to appropriate disciplinary action. The Company's whistleblower policy is interpreted consistently with its policies on Equal Employment Opportunity and Non-Discrimination and Harassment. An investigation into any reported incident of illegal activity will follow the procedures set forth in the Company's Equal Employment Opportunity and Non-Discrimination and Harassment policy. Any person found to have retaliated against an individual for reporting an alleged illegal activity or for participating in an investigation of allegations of such conduct will be subject to appropriate disciplinary action.

Special Note for Those Working on Nuclear Sites Pursuant to § 211 of the Energy Reorganization Act of 1974: Whether an active or former employee, Employees have the right and responsibility to raise nuclear safety or quality concerns without fear of reprisal. DZNPS commits that no employee will suffer retaliation for raising safety or quality concerns in good faith. Employees with any concerns about safety or quality, or about retaliation of any kind, should immediately notify their site manager, or they should contact the DZNPS Employee Concerns Helpline at 877-248-2191, or they can contact the Employee Concerns representative at the plant at which they work. Employees also can direct their concerns to the Nuclear Regulatory Commission ("NRC").

EMPLOYMENT OF RELATIVES

Purpose: The purpose of this policy is to establish uniform practices regarding the employment of relatives at DZNPS. This policy applies to all employees of DZNPS.

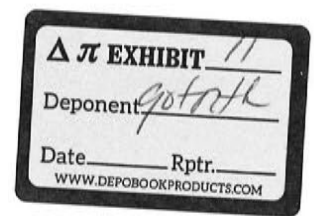
Definition of Relative: This policy applies to individuals who are related by blood, marriage or adoption, including the following relationships: spouse, domestic partner or civil union partner, child, step-children, parent, step-parent, legal guardian, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, parent-in-law, daughter-in-law, son-in-law, brother-in-law and sister-in-law.

Employment of Relatives: Relatives of currently employed employees generally are considered for employment on the basis of their qualifications. However, when the hiring or employment of a worker's relative would result in a "prohibited relationship", DZNPS will not accept such employment. Following constitutes a prohibited relationship: where the employment of a relative of a currently employed worker creates either (1) a supervisor/subordinate relationship between the relative and an employee; or (2) an actual conflict of interest or the appearance of a conflict of interest.

Marriage or Domestic Partnership between Current Employees: Employees who marry, become related, or enter into a domestic partnership, can continue in their current position as long as a prohibited relationship (discussed above) is not created. Current employees who are married or are related, or are involved in a domestic partnership, can continue in their employment so long as a prohibited relationship (discussed above) is not created.

Duty to Disclose Relationship: Employees are expected to disclose to their supervisors whether they have a relative applying for a position with DZNPS or whether they currently work with a relative. To that end, DZNPS Anti-Harassment Policy states in pertinent part: "Consensual romantic and/or sexual relationships between an employee with supervisory authority and any subordinate, including one not directly under the supervisor, will compromise DZNPS' ability to enforce its policy against sexual harassment. Consequently, if such relationships arise, they will be considered carefully by DZNPS and appropriate action may be taken. Such action may include a change in responsibilities of the individuals involved in such relationships or transfer of location within DZNPS. Any supervisory employee involved in such relationship is required to report the relationship."

Craft Employee Orientation Information & Work and Safety Rules



Approved by Walter Sanders, President, DZNPS
Effective: July 13, 2015

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fuel-gas cylinders by at least 20 feet or by a 5-foot high non-combustible barrier.

8. Housekeeping

- a. Good housekeeping is everyone's responsibility. Keep your work area and tools orderly.
- b. Maintain clear aisles and access to all work areas, never place equipment or tools on stairs or plant equipment, and keep clear access to exits and to safety equipment.
- c. Promptly report and eliminate all slipping hazards, which are a major cause of injuries. Snow and ice, water, oil and grease, fly ash and coal dust can create hazards requiring personnel warning and prompt correction.
- d. Keep material, tool boxes, tools, and equipment in a stable position to prevent rolling or falling, and keep them in neat and workmanlike order.
- e. Tie up hoses, electrical wires, and welding leads as required. Allow work and walk areas to remain clear. Use only non-conductive ties on electrical cords. Light bulbs on extension cords and on temporary wiring must have guards to protect against bulb breakage.

9. Special Activities

Employees may be asked to work on special activities. DZNPS has developed special procedures for performing work, such as asbestos abatement, lead paint removal, confined space work, and protection against falls or arsenic exposure. You will receive additional training in safety requirements before being asked to do this type of work.

PENALTIES FOR VIOLATION OF WORK & SAFETY RULES

CATEGORY ONE VIOLATIONS

One violation of any of the following type of rule infraction may lead to immediate termination and a prohibition on rehire:

- a. Willful or grossly negligent violation of security rules;
- b. Willful or grossly negligent violation of safety, quality or radiological rules;
- c. Violation of DZNPS Drug and Alcohol Rules, or the Plant-imposed drug and alcohol policy, including a refusal to be drug-tested;
- d. Theft of property;
- e. Acts of sabotage;
- f. Willful damage or mutilation of property;
- g. Possession of firearms or other weapons, ammunition, explosives or incendiaries (unless permit issued by Owner);
- h. Gross insubordination;
- i. Assault or battery on any personnel;

- j. Picking up or leaving another employee's time card, brass or other identification, or violating the Company's prohibition against working "off the clock";
- k. Falsification of records (such as social security number, name, quality control documents or other);
- l. Use of company equipment for non-business related purpose (*e.g.* computers);
- m. Solicitation or distribution of literature on Owner's property during working time;
- n. Unauthorized possession or removal of Company, Owner or other employee's property;
- o. Any behavior, past or present, or threat of future behavior which prevents the employee from gaining access to the work site because of a prohibition by the Customer or Owner;
- p. Harassment, either sexual or of another nature, of company employees, employees of the Client, the Owner or another company, or of other individuals on the project site; and
- q. Any Category Two (2) violation occurring within one year of any other Category Two violation.

CATEGORY TWO VIOLATIONS

One violation of any of the following type of rule infraction may lead to suspension and/or termination, with the length of suspension up to the discretion of site management.

- a. Negligent violation of safety, quality or radiological rules not considered in Category One;
- b. Negligent violation of security rules not considered in Category One;
- c. Insubordination;
- d. Refusal to accept work assignment;
- e. Leaving work place and/or project without supervisor's authorization;
- f. Engaging in horseplay;
- g. Fighting on the project;
- h. Sleeping during your working hours;
- i. Eating, drinking or smoking in areas where they are prohibited;
- j. Gambling on project;
- k. Missed work or absenteeism that exceeds the time permitted under the FMLA policy or applicable Work Rules;
- l. Defacing site or buildings;
- m. Intimidating or interfering with other project personnel;
- n. Refusal to participate in safety meetings or training, or to follow prescribed safety requirements or procedures while working;
- o. Failure to report injuries;



Day & Zimmermann NPS

We do what we say.

This is to certify that I have received, read and understand the DZNPS Employee Orientation Book, Project Work Rules and Jobsite Safety Rules.

Robert M. Goertt

Name (please print)

Employee Number

Robert M. Goertt 12-07-15

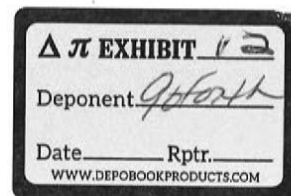
Signature


Date

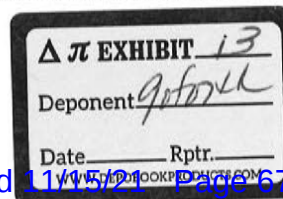
NOTE: Ensure that both the Employee and File Copies are signed.

FILE COPY

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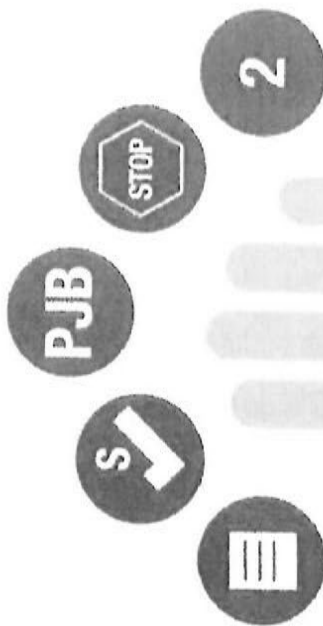


 NPG Standard Programs and Processes	Human Performance Tools	NPG-SPP-22.202 Rev. 0011 Page 1 of 29 Quality Ranked <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No ADRC Required <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Validation Date <u>08/22/2015</u> Review Frequency <u>3 years</u> Validated By <u>Leahna Roberts</u> Effective Date <u>07-14-2017</u>						
<div style="text-align: center;"> <p>Level of Use: Information Use</p> <p>Responsible Peer Team/Working Group: Human Performance</p> </div>								
<table border="0" style="width: 100%;"> <tr> <td style="width: 30%;">Approved by:</td> <td style="width: 40%; text-align: center;">George Hall</td> <td style="width: 30%; text-align: center;">07-09-2017</td> </tr> <tr> <td></td> <td style="text-align: center;">George Hall, CFAM Corporate Functional Area Manager</td> <td style="text-align: center;">Date</td> </tr> </table>			Approved by:	George Hall	07-09-2017		George Hall, CFAM Corporate Functional Area Manager	Date
Approved by:	George Hall	07-09-2017						
	George Hall, CFAM Corporate Functional Area Manager	Date						



DESCRIPTION	Place-keeping involves physically marking steps in a procedure or other guiding document that have been completed or that are not applicable. Effective place-keeping prevents omitting or duplicating steps.
WHY	<ul style="list-style-type: none"> • Prevents omitting or duplicating steps • Aids in navigating a detailed procedure • Prevents incorrect sequencing of steps • Helps return to last step if interrupted
WHEN	<ul style="list-style-type: none"> • When using a continuous-use procedure • When performing a reference-use procedure on risk-important equipment • The application of place-keeping for reference use procedures differs from that for continuous use procedures. When breaks, shift turnover, or extended delays in the job are encountered, the last completed step is documented using the slash method. A review of the completed steps should be performed to ensure no steps have been missed.
HOW	<p>Circle a step number to be performed Read and understand the entire step Perform the step as written</p> <ul style="list-style-type: none"> • Check, Initial or Sign blanks/boxes • Do not slash continuous steps <p>Mark conditional (IF / THEN) steps N/A if not needed Slash the circle after step completion</p> <p>If the procedure or work instruction requires that an individual fill in a blank with data, initial or sign steps, the completion of these actions will constitute place-keeping.</p>
AVOID	<ul style="list-style-type: none"> • Using procedures without page-checking • Signing many blanks with a single arrow • Circling more than one step at a time • Slashing a circle before it is completed • Circle/Slashing several steps together • Not verifying the last step if interrupted
References	<p>INPO 06-002 Human Performance Tools for Workers NPG-SPP-22.207 Procedure Use and Adherence</p>

HUMAN PERFORMANCE TOOLS



Procedure Use and Adherence

- Adherence means understanding a procedure's purpose, scope and intent and following its direction

Self Check STAR

- When performing work: stop, think about what you are going to do and what you expect, then perform the action and review the results

Pre-Job Brief

- Everyone involved should take time to discuss all aspects of the job and plan defenses against worst-case scenarios

STOP When Unsure

- Always question what you're doing, STOP if unsure, distracted or something doesn't feel right

2-Minute Rule

- Always perform the two-minute rule to reduce risk: It doesn't take a lot of time, but it could be enough to save your life

EXECUTION

EXECUTION



Human Performance Tools reduce errors and plant risk

Reference: NPG-SPR-22-202: Human Performance Tools